

REDACTED FOR PUBLIC INSPECTION
Pursuant to Protective Order in CC Docket Nos. 01-338 & WC Docket No. 04-313

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
)	
Unbundled Access to Network Elements)	WC Docket No. 04-313
)	
Review of the Section 251)	CC Docket No. 01-338
Obligations of Incumbent Local)	
Exchange Carriers)	
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DECLARATION OF JOHN S. SCZEPANSKI,
MARK DAVID VAN DE WATER
AND SHARON E. NORRIS
ON BEHALF OF AT&T CORP.

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DECLARATION OF JOHN S. SCZEPANSKI,
MARK DAVID VAN DE WATER
AND SHARON E. NORRIS
ON BEHALF OF AT&T CORP.

1. My name is John S. Szczepanski. My business address is 340 Mt. Kimble Avenue, Morristown, NJ 07962.

2. I am employed by AT&T Corp. ("AT&T") as a Product Manager in AT&T's Consumer Services organization. In this position I am responsible for the local voice business plan attainment in the small business market. I also have experience in operations, network planning, engineering, new service development, large program management and international business. I have a Bachelor's degree from La Salle University and have been with AT&T for 30 years. I have testified before this Commission and before numerous State commissions in proceedings involving the Telecommunications Act of 1996 ("the 1996 Act").

3. My name is Mark David Van de Water. My business address is 2701 East Rawhide Street, Gilbert, AZ 85296-9512.

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4. For the past 6 years I have worked in the Local Services and Access Management organization of AT&T with responsibility for negotiating and implementing operational support system (“OSS”) requirements and interfaces, and for resolving operational issues between AT&T Local Services and Southwestern Bell Corporation (“SBC”). In particular, I participated with SBC in formalizing their documented coordinated and uncoordinated unbundled network element-loop (“UNE-L”) with local number portability (“LNP”) hot cut processes. During 2003, I negotiated with SBC, on a business-to-business basis, to create a process by which AT&T is able to convert multiple unbundled network element-platform (“UNE-P”) customers to UNE-L. Before this assignment, I worked for over 16 years at Western Electric Company in various positions.

5. I hold a Bachelors of Arts degree in Psychology and a Masters of Arts degree in Organizational Management. I have testified before this Commission and before numerous State commissions in matters related to SBC’s applications for in-region long-distance authority under Section 271 of the 1996 Act. I have also recently presented testimony before a number of State commissions regarding the batch cut processes proposed by BellSouth and SBC.

6. My name is Sharon E. Norris. My business address is P.O. Box 658, Loganville, Georgia 30052. I have been employed in the telecommunications industry for over thirty years. I currently serve as a consultant with SEN Consulting. In that capacity, I have monitored and analyzed, on an ongoing basis, BellSouth’s compliance with its obligations to provide AT&T nondiscriminatory access to BellSouth’s OSS. I previously have been employed by both AT&T and Southern Bell. Prior to retiring from AT&T in 1998, I had been an employee there since 1983, a member of its Law and Government Affairs Division since 1991, and

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AT&T's representative to the Georgia Public Service Commission ("Georgia PSC") since 1995. From 1973 until 1983, I held various positions in Southern Bell's business offices, business marketing organizations, retail stores, and support staff organizations. I received a degree in Distributive Education from DeKalb College in 1972. As AT&T's representative to the Georgia PSC, I advocated AT&T's position on issues relating to opening Georgia's local exchange markets to competition. Beginning in 1997, I also began to monitor and analyze BellSouth's compliance with its OSS obligations throughout its nine-State region, a responsibility I continued to maintain when I retired from AT&T.

7. I have had extensive involvement in the State proceedings in BellSouth's region relating to the development, testing, and evaluation of BellSouth's OSS and other subjects. I have appeared in state workshops in Alabama, Florida, Georgia, Kentucky, Louisiana, North Carolina, South Carolina, and Tennessee that covered a wide range of topics, including OSS, performance measures, and third-party testing. I have also testified before the State public utility commissions in the States in the BellSouth region, with the exception of Florida. Finally, I have testified before this Commission in proceedings involving BellSouth's applications for Section 271 authority in the various States in its region.

I. PURPOSE AND SUMMARY OF TESTIMONY

8. The purpose of our testimony is to describe the continuing need of competitive local exchange carriers ("competitive carriers") for an effective batch hot cut process – which the Commission has defined as "a seamless, low-cost process for transferring large

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volumes of mass market customers.”¹ In its *Triennial Review Order*, the Commission found that in view of the deficiencies of the existing “hot cut” processes for migrating loops on an individual basis, a process for performing such cutovers on a batch (bulk) basis was “likely to be essential to overcome the operational impairment that competitors face in serving mass market customers.” *Triennial Review Order* ¶ 474. Thus, in order to promote competition, the Commission required State commissions to develop batch cut migration processes “that will address the costs and timeliness of the hot cut process,” or to issue detailed findings as to why a batch cut process was unnecessary in a particular market. *Id.* ¶¶ 422, 487-488.

9. The Commission’s findings regarding the importance of a seamless, low-cost batch cut process remain as valid today as they were in August 2003, when the *Triennial Review Order* was issued. Although no batch cut process can remove all of the deficiencies of the hot cut process (particularly the manual physical work required to perform the cut), an effective batch cut process offers benefits that are essential for competitive carriers to be able to compete in the event that the Commission relieves incumbent local exchange carriers (“ILECs”) of their obligation to provide unbundled switching.

10. AT&T continues to need an effective batch cut process. Although AT&T is shifting its focus away from providing wireline residential services and other traditional consumer services, it continues to provide local exchange service to *business* customers. While

¹ See *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, and Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-331, 96-98, and 98-147, Report and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd. 16978, ¶¶ 423, 487 (“*Triennial Review Order*”), *aff’d in part and*

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AT&T typically serves customers with high-volume demand with DS1 or higher-capacity loop facilities, AT&T's small business customers are served primarily through the UNE platform ("UNE-P"). Currently AT&T uses the UNE-P to provide service to more than [BEGIN PROPRIETARY] ***** [END PROPRIETARY] lines of small business customers.

11. If the Commission ultimately rules in this proceeding that ILECs are no longer required to provide unbundled switching (and thus the UNE platform) to competitive carriers, many of AT&T's business customers now served through the UNE-P will be migrated to UNE loops. Some of these customers will be served by AT&T's own switches, in AT&T's collocated facilities.

12. AT&T, however, is collocated only in a relatively small percentage of the ILECs' central offices where its small business customers are located. For example, AT&T has collocated facilities in only approximately [BEGIN PROPRIETARY] ***** [END PROPRIETARY] percent, of the 6,329 central offices where AT&T provides service to low-volume business customers under its "All In One" service. Constructing the necessary collocated facilities in *all* of those central offices would be prohibitively expensive. Thus, for those central offices where AT&T currently maintains no collocated facilities, AT&T may provide service to some of its UNE-P business customers by using the switches of a third party (such as another competitive carrier) pursuant to agreements between AT&T and the third-party "vendor."

vacated and remanded in part sub nom. United States Telecomm. Assn. v. FCC, 359 F.3d 354 (D.C. Cir. 2003) ("*USTA IP*"), *petitions for certiorari filed* June 30, 2004.

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13. Regardless of whether AT&T serves these business customers through its own switches or pursuant to a contract with a third party, however, it is critical that AT&T have the ability to migrate those customers to UNE loop service in a timely manner and with minimal disruption of the customer's service. That requires a batch cut process which has been demonstrated, through suitable testing, to provide a smooth transition to UNE-L service, and which is available at a reasonable price.

14. To date, however, the ILECs have not implemented such processes. The batch cut processes that the ILECs have proposed or offered in response to the *Triennial Review Order* have not even been adequately tested to determine whether they will work as the ILECs have promised. But even as promised, the ILECs' proposed batch cut processes are deficient and offer little (if any) improvement over the basic process for individual hot cuts that the *Triennial Review Order* found to be so flawed.² Moreover, despite the *Triennial Review Order's* requirement that State commissions develop and implement adequate batch cut processes, most of the State commissions have not done so. In fact, many State commissions have ceased their efforts entirely, citing the *USTA II* decision.

15. For these reasons, the Commission should – indeed, must – reaffirm its finding that a seamless, low-cost batch cut process is indispensable to competition in the local exchange market. Given the lack of activity by most State commissions in this area, the

² For purposes of this Declaration, we will use the terms “basic hot cut process” or “individual hot cut process” to refer to the ILEC processes that competitive carriers may use for any and all hot cuts regardless of volume – or, stated otherwise, the hot cut processes that the Commission reviewed in the *Triennial Review Order*. See, e.g., *Triennial Review Order* ¶¶ 464-473. We will use the term “batch cut process” to describe the type of process for transferring large volumes of

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Commission also needs to promulgate standards and requirements to ensure that batch cut processes are affordable, operationally efficient, and supported by uniform standards to ensure consistency across markets. Absent such action, the ILECs will continue to have a substantial operational and cost advantage that will result in disruptions of service to end-users, substantial increases in competitive carriers' costs, and an impediment to facilities-based competition.

16. As discussed in Part II, seamless and economical batch cut processes are necessary because the hot cut process that the ILECs have provided to migrate individual loops to a competitive carrier's network is so defective. Although an effective batch cut process will by no means eliminate all of the defects in the individual hot cut process (particularly the manual-intensive nature of the physical cutover), it at least has the potential to provide a more seamless and economical method of migrating customers to another LEC's switch.

17. Parts III through VI of this Declaration discuss the standards and requirements that the Commission should establish to maximize the effectiveness of a batch cut process for competitive carriers such as AT&T. First, as discussed in Part III, the Commission should reaffirm its holding in the *Triennial Review Order* that a batch cut process must include all migrations of *all* types of loops to another carrier's switch. Some ILECs, for example, have excluded loops served by Integrated Digital Loop Carriers ("IDLCs") from their batch cut processes. This exclusion effectively denies competitive carriers the ability to use the processes for a significant number of lines, given the substantial percentage of lines served by IDLC.

customers which the *Triennial Review Order* required State commissions to approve and implement. *See id.* ¶¶ 423, 474, 487-490.

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Similarly, at least one ILEC, BellSouth, precludes competitive carriers from migrating loops to a third party's switch – thereby impeding facilities-based competition.

18. Second, as discussed in Part IV, the Commission also should establish standards to ensure that batch cut processes are economical and efficient for competitive carriers. Most importantly, the Commission should require that the batch cut process be sufficiently tested by an independent third party before the ILEC may make the process generally available to competitive carriers. None of the ILECs' proposed batch cut processes have yet undergone comprehensive testing, and some ILECs' processes have not been tested at all. The Commission should also require that, unlike the batch cut processes proposed by several ILECs, any batch cut process give competitive carriers sufficient control over the timing of the cutover and other aspects of the "customer experience." In addition, the Commission should require ILECs to make their operations support systems ("OSS") as effective and automated as possible. For example, the ILECs should provide a single, automated system that provides competitive carriers with the status information and functionalities that they need in order to monitor, track, and verify their batch cut orders and to take prompt corrective action in response to any problems that occur during the batch cut process. The ILEC should also maximize the capability of batch cut orders to flow through the OSS without manual intervention.

19. Third, as discussed in Part V, the Commission should reaffirm the holding of the *Triennial Review Order* that rates for batch hot cuts must be reasonable and consistent with its Total Element Long-Run Incremental Cost ("TELRIC") methodology. The actual or proposed rates of the ILECs for their batch cut processes are so high that they make it

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uneconomical for competitive carriers to attempt to serve their customers using their own switches.

20. Finally, as discussed in Part VI, the Commission should require both the adoption of performance measurements and standards specific to the batch cut process, and the inclusion of such metrics and standards in the performance assurance mechanisms (“penalty plans”) governing their performance. Without such metrics, standards, and penalties, the ILECs will not have any incentive to implement the seamless, low-cost process that the Commission required.

II. EFFECTIVE AND EFFICIENT BATCH CUT PROCESSES ARE ESSENTIAL TO FACILITIES-BASED COMPETITION BECAUSE OF DEFICIENCIES IN THE PROCESSES FOR INDIVIDUAL HOT CUTS.

21. In order for competitive carriers to use their own switches to serve low or medium-volume business locations that are served through voice-grade loops, they must have an efficient, high-quality and cost-effective means to move their customers’ loops to their own switches. As the Commission found in the *Triennial Review Order*, however, the ILECs’ “basic” hot cut process for individual loops meets none of those standards. AT&T’s own experience confirms the inadequacy of the hot cut process as well as the potential benefits of a batch (bulk) cut process.

A. The ILECs’ Processes For Individual Hot Cuts Are Insufficient To Meet the Competitive Carriers’ Needs.

22. When a business customer seeks to move its local service from one switch-based carrier to another, the connection between the customer’s analog loop and the original carrier’s switch must be broken and a new connection must be established between that

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analog loop and the new carrier's switch. Because the customer's loop is lifted or "cut" while it still provides active service to a customer (*i.e.*, the loop is "hot"), the process used to transfer analog loops from one carrier's network to another's has become known as a "hot cut."

23. Any hot cut process involves two separate changes to the customer's service that must be coordinated to occur at approximately the same time: (1) the manual transfer of the customer's analog loop from one carrier's network to another's, *i.e.*, disconnecting the loop from the ILEC's switch and reconnecting it to facilities that carry the signal to the competitive carrier's switch (the loop cut); and (2) the porting of the customer's telephone number (including the associated software changes and the disconnection of the original carrier's switch translations), so that inbound calls to the customer can be routed to the new carrier's switch using the customer's existing telephone number.

24. A hot cut can cause a customer to lose service, in two ways. First, the customer can experience a complete loss of dial tone. From the time the customer's analog loop is disconnected from the ILEC's switch until it is reconnected to the competitive carrier's switch, the customer has no dial tone and is completely out of service. Second, the customer may be unable to receive incoming calls. From the time the customer's analog loop is reconnected to the competitive carrier's switch until the customer's number is successfully ported to the competitive carrier's switch, the customer cannot receive any incoming calls. That is because, until the appropriate change message is received by the Number Portability Administration Center ("NPAC"), the NPAC database indicates that calls should be routed to the ILEC's switch. If someone calls the customer and the calls are sent to the ILEC's switch after the customer's

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analog loop has been physically moved, the call will not complete and the caller will be unable to reach the customer.

25. The process for individual hot cuts relies completely on manual efforts, *i.e.*, the ILEC must dispatch technicians to the central office, where they cut over loops one at a time. Such hot cuts require close coordination between NPAC, the ILEC, and the competitive carrier, and require the parties to perform coordinated operations at a specific order. If the many steps of the hot cut process are not followed in the exact sequence – and precisely coordinated between both carriers – the customer will experience a loss of service that is much longer than the unavoidable outage associated with the hot cut process.

26. In the *Triennial Review Order*, the Commission found that the existing hot cut processes for migrating individual loops were inefficient, prevented orderly and seamless migrations, and substantially increased a competitive carrier's costs. The Commission concluded that these deficiencies are so significant that they impair both the quality of service to customers and the development of facilities-based competition. Specifically, the Commission found:

The record shows that hot cut capacity is limited by several factors, such as the labor intensiveness of the process, including substantial incumbent LEC and competitive resources devoted to coordination of the process, the need for highly trained workers to perform the hot cuts, and the practical limitations on how many hot cuts the incumbent LEC can perform without interference or disruption. Regardless of whether a customer was previously being served by the competitive LEC using unbundled local switching, or by the incumbent itself, a hot cut must be performed. The record contains evidence that hot cuts frequently lead to provisioning delays and service outages, and are often priced at rates that prohibit facilities-based competition for the mass markets.

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Triennial Review Order ¶ 465. The Commission found that these problems were “directly associated” with the fact that, because of the ILECs’ monopoly legacy, the voice-grade loops that serve low and medium-volume business locations are all physically connected to the ILECs’ facilities and switches. Thus, although connecting or disconnecting a customer “is generally a matter of a software change” for an ILEC, a competitive carrier “must overcome the economic and operational barriers associated with manual hot cuts.” *Id.* ¶¶ 459, 465.

27. The Commission recognized that the ILECs’ basic hot cut processes injure both consumers and competition by creating numerous opportunities for human error, interruptions of customer service, degradation of service quality, and delay. These are defects that customers simply will not tolerate. As the Commission stated, when such problems occur, customers “generally blame their provider, even if the problem is caused by the incumbent.” *Triennial Review Order* ¶ 467.

28. However, the Commission found that “the hot cut process could be improved if cut overs were done on a bulk basis, such that the timing and volume of the cut over is better managed.” *Id.* ¶ 474. The Commission therefore ordered State commissions either to approve and implement, within 90 days of the effective date of the order, “a seamless, low-cost process for transferring large volumes of mass-market customers,” or to issue detailed findings that a batch cut process is unnecessary in a particular market. *Id.* ¶¶ 423, 487-488. Specifically, the Commission directed that any batch cut process approved by a State commission must “render the hot cut process more efficient and reduce per-line hot cut costs.” *Id.* ¶ 460. The Commission concluded that a batch cut process which meets these criteria was “likely to be essential to overcome the operational impairment that competitors face in serving mass market

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customers,” and that absent such a process, “carriers are likely to be unable to economically serve a market characterized by low margins.” *Id.* ¶ 474.

29. In its *USTA II* decision, the U.S. Court of Appeals for the D.C. Circuit set aside the Commission’s finding that, on a national basis, competitive carriers are impaired without access to unbundled local switching because the Commission had not provided a basis for making such a finding on a nationwide basis. It is our understanding, however, that the court did not set aside the Commission’s specific findings regarding the deficiencies in the basic hot cut process and the need for a batch cut process.

30. Nonetheless, at least in part due to the *USTA II* decision, the vast majority of State commissions have done nothing to develop the batch cut process required by the *Triennial Review Order*. A table describing the status of the proceedings in each State involving the issue of batch cut processes is attached hereto as Attachment 1. Only a handful of State commissions have approved a batch cut process. In many other States, proceedings involving the issue are dormant, and appear unlikely to revive. In other States, such as Florida, the State commission has decided to close its proceedings on the basis of the *USTA II* decision. Some State commissions have totally failed to consider the issue.

31. Furthermore, efforts to develop adequate batch cut processes have often been resisted by the ILECs. ILECs such as SBC are asking State commissions to terminate their batch cut proceedings on the ground that the *USTA II* decision has effectively invalidated the Commission’s requirement of a batch cut process. *See id.* SBC recently argued to the California

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Public Utilities Commission that it “should *take no action* regarding the batch cut process” until this Commission issues final rules in these proceedings.³

32. Despite the inaction of most State commissions, the need for a seamless, low-cost batch cut process remains. As a preliminary matter, we must emphasize that even the most effective batch cut process will not eliminate all of the various economic and operational barriers created by the existing basic hot cut process. The *Triennial Review Order* itself recognized that these barriers only “may be mitigated” by a batch cut process. *Triennial Review Order* ¶ 487. Most notably, even under a batch cut process, the loop will be transferred manually, as it is in the basic hot cut process. Nor will a batch cut process reduce the collocation costs, backhaul costs (the costs of extending the loop from the ILEC’s central office to the competitive carrier’s switch), and other costs that the competitive carrier must incur to connect the loop to its switch.

33. Even with these defects, a properly designed and implemented batch cut process has the potential for reducing to some extent the operational and economic impairments caused by the current basic hot cut process. AT&T’s experience (described below) shows that project-managed, after hours, bulk transfers of customers on a central office and competitive carrier-specific basis can improve the quality and efficiency of the hot cut process, and allows competitive carriers to make use of their facilities in those cases where such migrations are possible because of the presence of collocated competitive carrier equipment. If implemented on

³ SBC California’s (U 1001 C) Notice of *Ex Parte* Meeting With Commission Advisor Jonathan Lakritz in CPUC Rulemaking 95-04-043 and Investigation 95-04-044, dated September 20, 2004, attachment at 4 (emphasis added).

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a national level, this type of process could offer competitive carriers a number of advantages over the current hot cut process.

34. For example, a properly developed batch cut process (as compared to the batch processes being proposed by the ILECs) can give the competitive carrier greater control over the timing of the cutover. If the batch cut process allows the competitive carrier to select the time and sequence in which its lines will be cut over (with advance notice to the ILEC), the competitive carrier will have the flexibility that it needs to schedule the cutover at the time least inconvenient to its customer.

35. If properly designed and implemented, a batch cut process also could enable a competitive carrier to realize a number of efficiencies and cost savings that cannot be achieved in the basic hot cut process. A batch cut process, for example, could reduce the considerable costs that a competitive carrier currently incurs in tracking individual hot cut orders. When a competitive carrier submits orders for numerous hot cuts under the basic hot cut process, it can determine the status of the orders only by conducting a separate status inquiry for each line – a process that consumes considerable time and costs. By contrast, if a competitive carrier can order hot cuts in batches, it can make a single status inquiry encompassing the entire batch. Additionally, an OSS developed in conjunction with the batch process which directly provided competitive carriers with real-time notifications of the status of their batch cut requests would further reduce the competitive carrier's costs, because it would spare the competitive carrier the task of constantly monitoring the ILECs' OSS to determine whether the ILEC has updated its status information.

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36. A properly designed batch cut process can enable a competitive carrier to use its resources more efficiently in other ways. Under the current basic hot cut process, even if a competitive carrier submits numerous orders for individual hot cuts at the same time and for the same central office, the ILEC may cut over those lines on various days and at various times as a result of workload constraints. Consequently, if the competitive carrier wishes one of its technicians to perform pre-cut testing on the lines on the day before they are cut over, the technician may be required to visit the collocated facility on several separate days to perform the tests before all of the hot cuts have been completed. By contrast, under a batch cut process, the lines would all be migrated on the same day, and the technician would need to make only one visit to the facility.

37. Another efficiency that the competitive carrier can realize from a batch cut process is the coordination effort. It is much more efficient for a competitive carrier to coordinate its hot cut activities (such as post-cut continuity testing on the line, number port activation, and internal order completion) when working on multiple lines/orders in the same ILEC central office with the same ILEC technician rather than having to work the same number of orders across multiple central offices over multiple days and potentially with multiple ILEC technicians.

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B. AT&T's Experience Confirms the Inadequacy of the Individual Hot Cut Process and the Potential Benefits of a Batch Cut Process.

38. AT&T's previous attempts to provide service to business customers through UNE loops illustrates the deficiencies of the processes that the ILECs use to provision individual hot cuts. By contrast, AT&T's subsequent experience in using project managed processes in its attempt to serve business customers through the UNE platform as an acquisition tool and subsequently converting the customer to its own facilities illustrates some of the potential benefits that competitive carriers might realize through the implementation of an adequate batch cut process.

39. Between 1998 and 2001, AT&T attempted to enter business markets for low-volume locations by purchasing and installing its own switches, and then using voice-grade unbundled loops, collocation and transport purchased from incumbents to carry customers' calls to the AT&T switch – a strategy that AT&T referred to as "UNE-L." This decision reflected AT&T's desire to use its own switches to provide service, so that it could offer an array of features to business customers over a common nationwide platform.

40. Initially, AT&T believed that it could viably serve low volume business customer locations using a UNE-L strategy. Thus, AT&T attempted substantial UNE-L entry in several key markets for low-volume business customers served via voice-grade loops. AT&T focused its entry efforts in areas (a) where there was hope of obtaining unbundled loops at cost-based rates and (b) where it expected that there would be a commercially reasonable process to provision both the unbundled loops and the collocation space that are essential to implement the UNE-L strategy.

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41. In these markets, AT&T not only made the necessary up-front investments to implement its UNE-L strategy, but also devoted substantial resources to achieve the coordination necessary to implement the appropriate provisioning processes. Thus, for example, AT&T invested in collocations and equipment, including digital loop carrier and remote testing systems, to support business UNE-L entry and designed its own OSS for businesses.

42. Unfortunately, even in states like New York and Texas, where AT&T devoted substantial resources to improve the collocation and provisioning process, and in spite of AT&T's strong commitment to this plan, AT&T's local business entry using a UNE-L strategy foundered. The results of AT&T's UNE-L strategy were dismal, and growth was very slow. In all that time, AT&T provisioned only about **[BEGIN PROPRIETARY] ***** [END PROPRIETARY]** lines nationwide – comprising just 3 percent of its overall local services lines and 6 percent of its total business local lines.

43. These results were caused principally by the problems AT&T experienced with hot cuts, even for the relatively small volumes of customers for which hot cuts were performed. These problems resulted in significant provisioning delays and outages associated with AT&T's orders, which, in turn, caused widespread dissatisfaction among AT&T's UNE-L customers. Some outages lasted for several days, severely impacting customers. Further, the likelihood of a dial tone affecting outage during a cutover was between 6 and 9 percent.

44. These dismal results of the UNE-L strategy occurred despite AT&T's significant sales and marketing efforts. Indeed, because of these problems, AT&T had to market its services even more vigorously to win customers: naturally, when AT&T's customers suffered from provisioning delays and/or service outages, they often became dissatisfied, and cancelled

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their service. Tellingly, more than *50 percent* of orders were cancelled prior to conversion. Because of the high cancellation or “breakage” rate, AT&T effectively had to sell twice the number of lines that it ultimately served through UNE-L.

45. AT&T’s examination of the reasons behind the disappointing number of UNE-L lines provisioned and the high rate of disconnects, including specific feedback from customers, showed that customer dissatisfaction was primarily due to provisioning delays and service disruptions at the time of conversion – which occurred even though only limited volumes had been ordered.⁴ Unfortunately, the negative impression left on customers who experienced such difficulties, including service outages, was almost impossible for AT&T to overcome. This negative impression was further affected by customers’ expectation that switching local carriers should be essentially the same as switching long distance carriers – prompt, technically flawless and undetectable. Perhaps most important, AT&T found that its customers typically held AT&T, not the ILEC, accountable for all service provisioning problems, regardless of the actual cause. The damaging effect on AT&T’s reputation proved to be even more significant because AT&T found that, in response to problems relating to local service provisioning, many business customers would also take their long-distance business to other providers.

46. Given these problems, it became clear to AT&T that provisioning service via UNE-L, when a hot cut was involved, was simply insufficient to meet customers’ business

⁴ Many customers expressed dissatisfaction that their service had to be cut over via the hot cut process *only* during business hours (the only hours in which the ILECs were willing to perform hot cuts). The disruptive effect of this process severely impacted the customers’ business operations, and, to make matters worse, customers had no control over the timing of any cutover. For example, restaurants and food service establishments were plainly upset if service cutovers were scheduled anywhere near lunch or dinner time.

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needs. Accordingly, AT&T concluded that serving low volume business customer locations using a UNE-L strategy was not feasible. Around the beginning of 2001, AT&T instead began to concentrate its efforts to provide service to those customers by using the UNE-P.

47. The critical difference between AT&T's UNE-P strategy and its failed UNE-L efforts is that the UNE-P permits AT&T to win and serve customers immediately, using an automated, electronic process. This has enabled AT&T to obtain customers (and their associated revenues) as quickly as it can win them in the marketplace. Moreover, at least for customers not served by DLC loops, AT&T could also use UNE-P as a transitional provisioning mechanism until those customers could be migrated to AT&T's own switches using a process that reduced some of the persistent problems with line-by-line basic hot cuts.

48. In particular, the cutovers that were performed under this two-step entry could be accomplished in a manner that was far less disruptive to the customer – a significant issue for business customers. In contrast to individual hot cuts, bulk cutovers could be performed on a “project managed” basis to migrate AT&T customers initially served via UNE-P to the carrier's own switch. When a project managed process is used, AT&T waits until a significant volume of UNE-P access lines has been established at a particular ILEC central office. It can then request a project, *i.e.*, request that all of the lines which AT&T serves in that office – often as many as 150 at a time – be cut over on the same day during a time period that works best for AT&T and its customers.

49. The project managed process does not eliminate all of the problems associated with the hot cut process, such as the manual work involved, the human error associated with this manual work, the service outages associated with a hot cut, or the need for

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close inter-company coordination to ensure service quality.⁵ Nonetheless, several advantages can be realized by using a project managed approach. First, the project managed approach allows the ILEC to dedicate technicians to the single central office where cutovers will be performed in bulk. Those technicians will be able to focus exclusively on the loops of the competitive carrier's customers, and to avoid distractions occasioned by the need to perform individual hot cuts for other carriers or other central office frame work at the same time. In addition, a project managed approach can be implemented outside of normal operating hours, which is by far the preference of business customers. This approach also permits all parties (the competitive carrier, the ILEC, NPAC and customers) to prepare for the changes in advance and under a specific schedule. This makes it easier to achieve the coordination that is necessary to perform the physical cutover work. Further, any errors associated with project managed cutovers are generally detected while the technicians are still at the central office and can be addressed at that time. Notably, when the ILEC performs such manual work for its own customers – for example, when a PBX customer switches to a Centrex service – the physical cutovers are similarly performed in bulk and on a project managed basis.

50. AT&T attempted to use the UNE-P entry strategy to serve low-volume business customers in a number of key markets. The results of AT&T's revised entry strategy were dramatic. In just a few months, AT&T was able to provision about **[BEGIN PROPRIETARY] ***** [END PROPRIETARY]** lines – nearly as many lines as AT&T's UNE-L strategy was previously able to achieve in over two years of effort. As a result, AT&T is

⁵ These problems are operational pitfalls associated with the hot cut process. The project process also does not address any of the architectural and economic problems associated with the hot cut process, such as the need for collocation space, collocated equipment and backhaul facilities.

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now providing a competitive bundle of local and long-distance services to small businesses in markets in 36 states.

51. AT&T's relative success in implementing this strategy was based in large part on the improved provisioning and reliability it was able to achieve. Because UNE-P does not rely on manual processes for transfer of the customer from the ILEC to AT&T, the average interval from the point of sale to establishment of customer dialtone fell by over 50 percent. Moreover, the likelihood of a service interruption fell dramatically. These improvements had a visible impact on AT&T's sales and marketing efforts: only 20 percent of the UNE-P orders that AT&T sold were cancelled prior to conversion, rather than the rate of more than 50 percent that AT&T experienced in its UNE-L strategy.

52. AT&T has already converted thousands of these UNE-P lines to its own facilities using the project-managed approach. On those conversions, a loss of dial tone has occurred less than 1 percent of the time. Clearly, this approach dramatically improved AT&T's ability to serve low-volume business customer locations and to provide this segment of business users with a meaningful competitive alternative.⁶

⁶ In addition to migrating business customers served by UNE-P to its own facilities, AT&T continues to use its own switches and unbundled analog loops to serve business customers who AT&T served in this manner during its UNE-L strategy. When these customers wish to change their service by adding lines or migrating additional lines from the ILEC, AT&T will continue to use UNE-L to satisfy this request. AT&T has followed this practice because it maintains separate processes and databases for its customers served via loop facilities and its customers served via UNE-P. Having all of a customer's lines provisioned using the same network configuration allows AT&T to provide more efficient and effective on-going customer service, maintenance, and repair. AT&T has not actively marketed analog services to small business mass market customers using a UNE-L strategy, due to the provisioning problems and the high

III. THE COMMISSION MUST ENSURE THAT BATCH CUT PROCESSES INCLUDE ALL MIGRATIONS OF LOOPS TO THE SWITCH OF ANOTHER CARRIER.

53. The regulations promulgated by the Commission in the *Triennial Review Order* defined a batch cut process as “a process by which the incumbent LEC simultaneously migrates two or more loops *from one carrier’s local circuit switch to another carrier’s local circuit switch.*” 47 C.F.R. § 51.319(d)(2)(ii) (emphasis added). Thus, the Commission required that a batch cut process include *all* migrations of loops from one carrier’s switch to another, regardless of the type of loop involved and regardless of the identify of the carrier to whose switch the loop is being migrated.

54. The batch cut processes proposed by certain ILECs, however, fail to meet those requirements in at least two significant respects. First, some ILECs either will not allow, or severely limit, batch hot cuts of loops served by IDLC facilities. Second, at least one ILEC, BellSouth, refuses to allow competitive carriers to use the batch cut process to migrate loops to the switch of a third party. The Commission should make clear that any batch cut process should include *both* of these types of migrations.

A. The Commission Should Require That Batch Cut Processes Include the Migrations of Customers Currently Served by IDLC Loops.

55. Incumbent LECs are increasingly using Integrated Digital Loop Carriers to increase the efficiency of their loop facilities. Instead of aggregating copper loops in cables and carrying them all the way from the customer’s premises to the main distribution frame (“MDF”) at the central office, the ILEC brings the customer’s loop first to IDLC equipment that

costs of hot cuts and backhaul costs, *i.e.*, the costs of extending the loop from the ILEC central

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is housed in a remote terminal close to the customer's premises. The remote terminal equipment converts the analog signals on the line coming from the customer's premises to digital signals and multiplexes all the digital signals for all of the customers served by the remote terminal onto a high-capacity digital carrier system for transmission to the central office. At the central office, the digital loops bypass the MDF altogether and access the switch directly through a digital cross-connection frame. No analog signal or physical reappearance on an MDF is ever re-established to identify an individual subscriber's loop.

56. The IDLC configuration offers substantial efficiency gains for ILECs. It reduces the ILEC's transport costs because fewer facilities are needed to transport traffic from the customer premises to central offices. It lowers the ILEC's maintenance costs, because the ILECs normally deploy IDLC with fiber, which is cheaper to maintain than cooper. The use of IDLC also increases the ILEC's overall loop capacity, because electronics applied to fiber facilities can increase capacity without the need to build additional facilities.

57. Because of the efficiencies that IDLC offers, the ILECs are using IDLC to serve an increasingly high percentage of their lines. In Florida, for example, 36 percent of BellSouth's lines are served through IDLC loops. In Georgia, BellSouth uses IDLC loops to serve 27 percent of its lines. In the Qwest region, the percentage of lines served by IDLC loops ranges from 20 percent to 68 percent in certain central offices. Based on data from Qwest's ICON database, many of these central offices are extremely large and have over 70,000 lines.

office to AT&T's switch.

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58. The Commission recognized the increasing significance of IDLC-served loops in the *Triennial Review Order*. For example, the Commission required ILECs to provide requesting carriers with a technically feasible method of obtaining unbundled access to a transmission path over hybrid loops served by IDLC. *Triennial Review Order* ¶ 297.

59. Despite the Commission's unqualified requirement that a batch cut process "migrate two or more loops" from one carrier's switch to another's, three of the four largest ILECs have expressly excluded IDLC loops from their proposed batch cut processes, or have severely limited the use of such loops in the batch cut process. Because of the high and growing volume of lines served by IDLC, these restrictions and limitations severely reduce the utility of the batch cut process to competitive carriers. The Commission should therefore prohibit such restrictions or limitations.

60. Of the four Regional Bell Operating Companies, only SBC's batch cut process permits competitive carriers to request batch hot cuts of IDLC loops without imposing any volume limitation. By contrast, Verizon and Qwest exclude *any* lines served by IDLC loops from their respective batch cut processes. Thus, in order to migrate IDLC loops in the regions of Verizon and Qwest, competitive carriers must use the individual hot cut process.

61. BellSouth does not totally exclude IDLC loops from its batch cut process, BellSouth substantially limits the number of IDLC lines that can be migrated under its process in any given central office per day. Until recently, based on BellSouth's previous representations, it was AT&T's understanding that BellSouth limited the number of IDLC cuts to 70 lines *per*

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competitive carrier per day in a given central office.⁷ BellSouth also limits the total number of hot cuts per competitive carrier per day to 125 lines (both IDLC and non-IDLC) in any given central office. Consequently, under AT&T's previous understanding of BellSouth's policy, if a competitive carrier using BellSouth's batch cut process requested hot cuts for 80 non-IDLC lines in a central office, the maximum number of IDLC loop conversions that the competitive carrier could request for the same day would be 45 (125-80).

62. Recently, however, AT&T learned that BellSouth's limitation on IDLC migrations is even *more* restrictive than it had previously believed. In an electronic mail message dated September 21, 2004, BellSouth's Change Management Team stated that under BellSouth's batch cut process, BellSouth will convert no more than 70 IDLC lines *for all competitive carriers combined* per central office for a given day. Thus, according to the BellSouth message, if a competitive carrier ordered 70 IDLC conversions for a particular central office on a given day, "no other [competitive carrier] could reserve time for any other IDLC conversion in that office for that day." Instead, the additional IDLC conversions "would have to

⁷ For example, in a Power Point presentation that it distributed to competitive carriers in April 2004 regarding its batch cut process, BellSouth stated: "IDLC (Coordinate or Non-Coordination): Limit of 70 lines can be reserved per customer. . . . A customer can only request the maximum of 125 lines [per central office per day]. Within the 125 max. lines, the customer may only order 70 lines (max. value) for IDLC activity types." See "Web based process tools for use with Bulk Migration," BellSouth Power Point presentation distributed April 5, 2004, at 24 (attached hereto as Attachment 2).

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be scheduled for another day.”⁸ BellSouth confirmed, however, that its policy limited the total number of conversions per CO per day to 125 lines for each competitive carrier.⁹

63. Regardless of whether the limit is 70 IDLC lines per competitive carrier or 70 lines for all competitive carriers, BellSouth’s limitations on migrations of IDLC lines appears to be wholly arbitrary. BellSouth has never explained to the competitive carriers why it selected 70 lines as the limit, on IDLC conversions, as opposed to a higher or lower number.

64. The ability of competitive carriers to order migrations of IDLC loops under BellSouth’s batch cut process is further inhibited by BellSouth’s additional policy that it will migrate only a maximum total of 200 lines (IDLC and non-IDLC) for *all* competitive carriers, combined, in a central office on a given day. As a result, even if the total number of IDLC lines for which competitive carriers request hot cuts on a given day for a central office does not exceed the 70-line limit, there is no guarantee that BellSouth will migrate all of the IDLC lines on that day. For example, if two competitive carriers request hot cuts for a total of 50 IDLC lines, but other competitive carriers have already requested cutovers for 200 non-IDLC lines for the same date, the IDLC migrations will be postponed to a later date.

65. The ILECs’ limitations on the migration of IDLC loops are a significant impediment to competitive carriers. Verizon and Qwest, by excluding IDLC loops entirely from

⁸ Electronic mail message from Steve Hancock (BellSouth Change Management Team) to Jordana Jureidini (AT&T), dated September 21, 2004 (Attachment 3 hereto).

⁹ *Id.* Thus, if a competitive carrier requested a batch cut of 70 IDLC lines on a particular day in a given central office, BellSouth would migrate no more than 55 additional lines for that competitive carrier, and no other IDLC lines for other competitive carriers in that CO, on the same day.

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their batch cut processes, have denied competitive carriers the ability to use the low-cost batch cut process envisioned by the Commission for any customer served by this type of loop technology. In fact, the policies of Qwest and Verizon effectively deny competitive carriers from using the batch cut process at all in the central offices of these RBOCs where a very high percentage of lines are served by IDLC.

66. The exclusionary policies of Verizon and Qwest impose other significant burdens on competitive carriers. To minimize the possibility that their batches include no IDLC loops, a competitive carrier will be required to use these ILECs' pre-ordering interfaces and determine whether a particular line is served by IDLC. This process is time-consuming and costly to a competitive carrier, because a separate check must be performed for each line. Even when the competitive carrier performs these checks, however, the information that they receive is often inaccurate. AT&T has found that the loop make-up databases of Qwest do not always accurately represent the facilities that they are using to provide service to a customer. Thus, it is likely that some requests for bulk hot cuts by competitive carriers will include accounts in a bulk hot cut project that the ILEC's database indicated were all on copper facilities when, in fact, the lines are on an IDLC system. When this happens, the competitive carrier will need to remove the IDLC lines from the batch and later migrate them by using the individual hot cut method.

67. Furthermore, when a competitive carrier in the Verizon or Qwest regions has a multi-line customer who has only one line on an IDLC facility, the entire account must be removed from the project to insure that the cutover will not impact the customer's service or features. In such circumstances, the competitive carrier would need to reschedule all of the lines

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for conversion at a later date, using the existing individual hot cut process. As a result, the competitive carrier would experience substantial costs and delays.

68. Although BellSouth does not exclude IDLC-served lines from its batch cut process, its limitations on the number of IDLC lines and total lines that will be migrated on a daily basis in a central office also imposes significant burdens on competitive carriers. As previously stated, under the BellSouth batch cut process, BellSouth will convert no more than 70 IDLC-served lines per day per central office. At the same time, BellSouth allows each competitive carrier to migrate a *total* of 125 lines (IDLC or non-IDLC) per day per central office. Thus, even if a competitive carrier is ordering fewer than 125 lines per day, it must determine whether its request includes any IDLC lines and, if so, whether other competitive carriers have already requested hot cuts for 70 IDLC lines in that CO on the same date. As in the Verizon and Qwest regions, the competitive carrier can make that determination only by performing a line-by-line query using the ILEC's pre-ordering interface. That requires a substantial expenditure of time and labor, thereby increasing the competitive carrier's costs and delaying the submission of the batch cut request.

69. There can be no justification for treating IDLC loops differently from other loops for purposes of the batch cut process. SBC's batch cut process – unlike those of Verizon and Qwest – includes both IDLC and non-IDLC loops. Moreover, in contrast to

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BellSouth, SBC does not limit the number of IDLC loops that a competitive carrier can submit under the process.¹⁰

70. Because SBC expressly includes IDLC loops in its batch cut process without volume limitations, there is no reason why the other ILECs cannot do so as well. To date, however, Verizon, Qwest, and BellSouth continue to maintain their exclusions and limitations on the use of IDLC loops in their processes. Although competitive carriers have raised this issue in State commission proceedings involving the batch cut process, given the linkage between batch cut process development and the State proceedings pursuant to the *Triennial Review Order*, the State commissions have not taken action.

71. For these reasons, it is critical that the Commission expressly requires that batch hot cut processes include IDLC loops, and make no distinction between such loops and other loops. The current exclusions and limitations on the use of IDLC loops deny competitive carriers the ability to use the batch cut process for a significant number of their customers.

72. If the ILECs are permitted to prohibit or limit the use of batch cut processes for hot cuts of loops served by IDLC technology, the customers served on such loops should be allowed to remain on the UNE platform. In the *Triennial Review Order*, the Commission required the ILECs to provide unbundled access to IDLC loops:

¹⁰ As discussed below, however, SBC's proposed non-recurring costs for batch cuts involving loops served by IDLC are substantially higher in some States in its region than its proposed NRCs for batch cuts of non-IDLC loops. For example, in Arkansas, Oklahoma, and Texas, SBC's proposed NRC for batch cuts of IDLC-served loops ranges between \$116.55 and \$125.32 – approximately \$80.00 higher than SBC's highest proposed NRC for batch cuts of loops not served by IDLC. These NRCs are so high that many competitive carriers likely would find it

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[W]e require incumbent LECs to provide requesting carriers access to a transmission path over hybrid loops served by Integrated DLC systems. We recognize that in most cases this will be either through a spare copper facility or through the availability of Universal DLC systems. Nonetheless even if neither of these options is available, incumbent LECs must present requesting carriers a technically feasible method of unbundled access.¹¹

73. Offering a batch cut process in a post UNE-P world that does not even include the ability to hot cut IDLC loops is not a process that provides any method of unbundled access, much less a “technically feasible method of unbundled access.” If the process limits that ability, the competitive carrier should be permitted to continue serving the customer through the UNE platform.

B. The Commission Should Require That Batch Cut Processes Include Hot Cuts of Loops To Any Other Carrier’s Switch.

74. As previously stated, some of AT&T’s business customers currently served via the UNE platform may be served through the switch of a third party, pursuant to an agreement between AT&T and the third party, in the event that ILECs are no longer required to provide the UNE-P. The volume of customers served by these “third-party switches” may be substantial, since fewer than [BEGIN PROPRIETARY] ** [END PROPRIETARY] percent of AT&T’s small- and medium-sized business customers are located in areas where AT&T could serve them through its own collated facilities. Thus, it is essential that any batch cut process allow AT&T, and other competitive carriers with similar third-party arrangements, to request

uneconomical to use the batch cut process for a customer served by IDLC loops. Instead, the competitive carrier probably would simply give up the customer.

¹¹ *Triennial Review Order* ¶ 297. If the competitive carrier must use the basic hot cut process to cut over customers on IDLC, it should be charged only the rate for batch hot cuts – which should

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migrations of batches of lines to another party's switch (or to switching that was obtained from a third party).

75. However, one ILEC, BellSouth, will *not* allow competitive carriers to utilize its batch cut process to migrate a loop to a third party's switch. BellSouth's policies, practices, and systems effectively prevent a competitive carrier from being able to order a loop from BellSouth but order switching from another competitive carrier. For example, if AT&T were to submit a service request to purchase a loop from BellSouth and deliver it to another competitive carrier's collocation, BellSouth's systems would not process the order.

76. BellSouth has advised AT&T that it will not allow competitive carriers to migrate loops to a third-party's switch. In a June 20, 2002 letter to AT&T, BellSouth stated:

It is BellSouth's policy not to accept assignments from CLECs other than the owner of the collocation space and associated cable assignments. Therefore, BellSouth's ordering and provisioning systems contains edits to prevent unauthorized assignment of its customer's collocation assets.¹²

77. BellSouth has therefore designed its OSS to preclude the processing of requests for migrations to a third party's switch. Under BellSouth's processes, a competitive carrier sends BellSouth a Local Service Request ("LSR") that advises BellSouth with (among other things) (1) the identity of the competitive carrier; (2) where the competitive carrier wishes BellSouth's service to be delivered; and (3) where BellSouth should send the bill to the competitive carrier.

be lower than the basic hot cut rate. The competitive carrier should not be required to pay a higher rate simply because of the ILEC's policy decision.

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78. As part of its identification information on its LSR, the competitive carrier must provide BellSouth with its Access Customer Name Abbreviation (“ACNA”). The ACNA identifies who is to be billed for the services (*i.e.*, the loop) ordered. In describing where it wishes the service to be delivered, the competitive carrier must also provide BellSouth with an Access Customer Terminal Location (“ACTL”).¹³ The ACTL identifies the location where BellSouth’s loop is to be delivered for connection with a competitive carrier’s equipment.

79. BellSouth currently requires that the ACNA (identity) of the competitive carrier ordering service from BellSouth be the *same* as the ACNA associated with the ACTL used to specify the delivery location. BellSouth’s requirement is not an industry requirement, but one that was unilaterally determined and imposed by BellSouth itself.

80. BellSouth’s requirement effectively precludes a competitive carrier from ordering a loop from BellSouth and connecting it to the collocation arrangement of a different competitive carrier in order to use that competitive carrier’s switch. BellSouth’s systems are currently designed to compare the identity code and the place-of-delivery codes on the LSR.

¹² Letter from James M. Schenk (BellSouth) to Denise Berger (AT&T), dated June 20, 2002, at 1 (attached hereto as Attachment 4).

¹³ Codes specifying when the competitive carrier wishes the service to be delivered are actually address information. The principal “code” used for these purposes is the Common Language Location Identifier (“CLLI”), which is either 8 or 11 characters long and is developed in accord with guidelines provided by Telcordia, which also keeps the master CLLI Database. Each CLLI has an “owner,” which is identified in the CLLI Database by the owner’s Interexchange Access Customer code, or ACNA. This CLLI code is used to populate the Access Customer Terminal Location (“ACTL”) field. Connecting Facility Assignment (“CFA”), Cable Identification (“Cable ID”), and Channel or Pair Identification (“Chan/Pair”) are another group of “codes,” which, although different items, are commonly referred to as CFA. All of these codes tell BellSouth the actual physical point where it is to deliver its services to the competitive carrier. Often the terms ACTL and CFA are used interchangeably to represent this physical point of interconnection.

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When these codes do not match, the LSR automatically falls out for manual handling. In the past, BellSouth addressed this problem with a manual work-around that assigned a secondary code to identify all the collocations as belonging to AT&T. However, BellSouth advised AT&T in 2003 that “BellSouth has no plans to continue accepting service orders that require manual processing” caused by the use of multiple company codes, and reiterated its previous recommendation that AT&T pay for a mechanization upgrade to “allow multiple ACNA orders to flow through BellSouth’s systems without manual intervention.”¹⁴ This work-around (at best) or outright refusal to process orders (at worst) obviously will not be sufficient in a world in which competitive carriers may choose to purchase unbundled local switching from each other or from wholesale providers. Competitive carriers must be able to order a loop and have that loop delivered to another party’s collocation space.

81. AT&T has experienced this problem in the limited cases in which it has ordered UNE loops from BellSouth. Because of its acquisition of TCG, AT&T owns collocations that were built pursuant to TCG’s agreement with BellSouth as well as collocations that were built under AT&T’s direct agreement with BellSouth. The codes used to describe TCG collocations are labeled “TPM,” but the codes for the AT&T collocations are labeled “ATX.” When an order sent to BellSouth using the “TCG” label seeks to purchase an unbundled loop from BellSouth and wants it directed to an AT&T collocation that is labeled “ATX,” BellSouth’s systems cannot electronically process the order.

¹⁴ See Letter from Jim Schenk (BellSouth) to Denise Berger (AT&T), dated July 21, 2003, at 1 (Attachment 5 hereto).

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82. BellSouth's processes thus preclude seamless migrations of loops to third-party switches. There is no justification for limiting the batch cut process to migrations of loops to the requesting carrier's own switch. Such a limitation would be totally illogical in other industries (for example, it would be tantamount to a policy by UPS that UPS will deliver packages only to the home of the person who requested the delivery). It is equally illogical in the context of hot cuts. Industry standards do not mandate the types of edits and restrictions that BellSouth has incorporated into its OSS. Indeed, other ILECs, including SBC, allow competitive carriers to migrate loops to third-party switches. The Commission should therefore require that batch cut processes include hot cuts of loops of competitive carriers that wish to use another party's switch.

83. To the best of our knowledge, Verizon, SBC, and Qwest allow competitive carriers to utilize their batch cut processes for hot cuts of loops to a switch of a party other than the requesting carrier. There is therefore no basis for BellSouth's failure to allow utilization of its own batch process for this purpose.

IV. THE COMMISSION SHOULD ESTABLISH STANDARDS TO ENSURE THAT BATCH CUT PROCESSES ARE SEAMLESS, ECONOMICAL, AND EFFICIENT FOR COMPETITIVE CARRIERS.

84. In addition to ensuring that any batch cut process includes all types of loop migrations from one carrier's switch to the switch of another carrier, the Commission needs to establish standards and requirements to ensure that, in actual operation, the batch cut processes will be as efficient, effective, and economical as possible. This is particularly important because, as previously discussed, no batch cut process will totally eliminate the deficiencies of the basic hot cut process, including the manual work required to perform the actual cutover.

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85. If competitive carriers are to realize *any* efficiency or cost advantages from using a batch cut process rather than the basic hot cut process, the Commission must establish requirements for those processes that will achieve those goals. Unless the Commission does so, the batch cut processes offered by the ILECs – which are not only unproven but only patently flawed in a number of respects – will offer no realistic advantage over the processes that the Commission found so lacking in the *Triennial Review Order*.

86. Specifically, the Commission should require that: (1) the batch cut process must be adequately tested by an independent third party before the ILEC makes the process generally available; (2) the batch cut process must give the requesting competitive carrier control over the timing of the cutover and the “customer’s experience;” and (3) the ILECs must implement certain changes in their OSS to make the process as seamless, automated, and efficient as possible. Currently, none of the batch cut processes offered by the ILECs meets these criteria.

A. The Commission Should Require That a Batch Cut Process Be Adequately Tested Before the ILEC Makes It Generally Available To Competitive Carriers.

87. Although the ILECs have offered batch cut processes to competitive carriers in response to the *Triennial Review Order*, *none* of those processes has been adequately tested to determine: (1) whether the processes work as described in the ILECs’ oral and written representations; and (2) whether the processes are seamless, efficient, and cost-effective for competitive carriers. Although a few State commissions have attempted to require comprehensive testing of these proposed batch cut processes, most have not done so.

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88. The Commission should therefore require that any ILEC's batch cut process be subjected to comprehensive testing by an independent third party before the ILEC makes the process generally available to competitive carriers. Simply put, the promises of the ILECs that their batch cut processes "will work" do not translate into actual performance. And offering such a process does not mean that, after actually being implemented, it will perform as promised or constitute a material improvement over the basic hot cut process. As the Michigan Public Service Commission recently stated, testing is necessary "to make sure the batch cut migration processes will work as anticipated in a real environment."¹⁵

89. Since the enactment of the Telecommunications Act of 1996, the Commission has repeatedly recognized the importance of ensuring that an ILEC's process works properly. For example, in its Section 271 proceedings, the Commission stressed from the outset that a Bell Operating Company's promises of *future* performance to address *current* problems were insufficient to satisfy the requirements of the competitive checklist.¹⁶ Thus, an important factor in the Commission's approval of Section 271 applications was proof that the BOC applicant's OSS had been shown to render nondiscriminatory performance in independent third-party testing that was comprehensive in scope and depth, rigorous (with a "test-until-you-pass" approach), and blind.¹⁷ In addition, as part of its analysis of an applicant's change management

¹⁵ See Michigan PSC Case No. I U-13891, *In the Matter, on the Commission's own motion, to investigate and to implement, if necessary, a batch cut migration process*, Order Establishing Batch Cut Migration Process, issued June 29, 2004, at 22 ("Michigan PSC Order").

¹⁶ See, e.g., *Michigan 271 Order*, ¶¶ 55, 179. See also, e.g., *Texas 271 Order* ¶ 38; *New York 271 Order* ¶ 37.

¹⁷ See, e.g., *Application by Qwest Communications International, Inc. for Authorization To Provide In-Region, InterLATA Services in the States of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming*, 17 FCC Rcd. 26303, ¶¶ 12, 49, 131,

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process, the Commission stressed that the ILECs must provide competitive carriers with a stable test environment mirroring production, which competitive carriers could use to determine whether – after the BOC implemented a proposed change in its OSS – the competitive carriers’ own systems would interact smoothly and effectively with those of the BOC.¹⁸

90. The *Triennial Review Order* recognized and applied these principles in the context of hot cut processes. First, the Commission rejected the ILECs’ argument that it should make a finding of “no impairment” based on their assurances that they would be able to handle any requested volume of hot cuts. The Commission stated:

We find, however, incumbent LECs’ promises of future hot cut performance insufficient to support a Commission finding that the hot cut process does not impair the ability of a requesting carrier to provide the service it seeks to offer without at least some sort of unbundled circuit switching. While the incumbent LECs state that they have the capacity to meet any reasonable foreseeable increase in demand for stand-alone loops that might result from increased competitive LEC reliance on self-provisioned switching, there is little other evidence in the record to show that the incumbent LECs could efficiently and seamlessly perform hot cuts on a going-forward basis for competitors who submit large volumes of orders to switch residential subscribers.

Triennial Review Order ¶ 469 n.1437 (emphasis added).

91. Second, the *Triennial Review Order* recognized importance of testing. As evidence of the unreliability of the ILECs’ “predictive claims” that they could adequately

155, 165 (2002) (“*Qwest Nine-State 271 Order*”); *Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., And BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services In Georgia and Louisiana*, 17 FCC Rcd. 9018, ¶¶ 103-108 (2002) (“*Georgia/Louisiana 271 Order*”); *Texas 271 Order* ¶¶ 98, 102-104; *New York 271 Order* ¶¶ 96-100.

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perform high volumes of hot cuts, the Commission noted that “where incumbent LECs have undergone comprehensive testing of their loop provisioning processes, state commissions have found difficulties regarding hot cut performance.” *Id.*

92. Adequate pre-implementation testing is essential to ensure that, once a batch cut process has been implemented, competitive carriers can migrate their customers’ lines seamlessly and without unexpected service interruptions. Through testing, defects in the process can be detected and corrected before implementation, thereby avoiding problems in actual commercial usage. Absent such testing, competitive carriers will learn whether the process actually works only when they submit commercial batch cut orders. If the process fails, service to the customer likely will be disrupted, with resulting customer dissatisfaction. Consequently, rather than subject hundreds of thousands of AT&T’s UNE-P business customers to untested batch cut processes, the ILEC should be required to have its process tested by a third party to determine whether the ILEC can handle batch cuts seamlessly and with negligible customer downtime.

93. The need for comprehensive testing is confirmed by AT&T’s previous experiences with hot cuts when it was pursuing a UNE-L strategy. As described above, AT&T used the hot cut processes of the ILECs, who had assured regulatory authorities and the competitive carriers that their processes would cut over loops with minimal service interruptions or delays. Those processes, however, had not undergone any independent third-party testing at

¹⁸ *Qwest Nine-State Order* ¶ 132; *Georgia/Louisiana Order* ¶¶ 179, 187; *New York 271 Order* ¶ 109.

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the time AT&T commenced its UNE-L entry.¹⁹ When AT&T used the hot cut processes, the results were totally different from those that the ILECs had promised. Even though AT&T submitted only relatively modest volumes of hot cut orders, the ILECs' hot cut processes were so deficient that they produced significant customer outages and provisioning delays, with resulting customer dissatisfaction and damage to AT&T's reputation. So many customers cancelled their service as a result of these problems that AT&T abandoned the UNE-L strategy altogether.

94. Despite the clear need for comprehensive testing, *none* of the various batch cut process offered by the ILECs has been comprehensively tested to determine whether they provide the seamless, low-cost experience called for by the *Triennial Review Order*. Indeed, the batch cut processes offered by SBC and Verizon have not been tested *at all* by an independent third party.

95. SBC appears to be resisting any comprehensive testing of its batch cut process. For example on June 29, 2004, the Michigan PSC approved, on an interim basis, a batch cut process which was generally the same as that proposed by SBC. In its order, the MPSC found that "there must be appropriate procedures for testing" of the interim process it approved, because "Without adequate testing, the parties and the Commission cannot evaluate whether SBC is capable of migrating multiple lines in a timely manner." *Michigan PSC Order* at 22. The MPSC therefore held that "Testing should begin as soon as possible" and directed

¹⁹ In markets where AT&T implemented the UNE-L strategy (such as New York and Texas), no independent third-party testing of the hot cut process had occurred at the time of AT&T's entry. Although third-party testing was subsequently conducted in these areas for purposes of the BOCs' various Section 271 applications, those tests focused almost exclusively on the performance of the OSS in connection with ordering requests for hot cuts, rather than on the

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SBC, the competitive carriers, and the MPSC to file a joint plan regarding the testing of the “interim” batch cut process. *Id.*

96. SBC, however, has asked the U.S. District Court in Michigan to declare the MPSC’s June 29th order to be invalid. SBC has argued in its pending motion for summary judgment that the MPSC’s order is contrary to federal law because (among other things) it is based on the *Triennial Review Order*’s requirement of a batch cut process, which was part of the *Triennial Review Order*’s delegation of impairment determinations to the State commissions that was set aside in the *USTA II* decision.²⁰

97. Furthermore, in the collaborative process established by the Michigan PSC, the parties have been unable to reach agreement on a test plan. The “testing” proposed by SBC in the collaborative would have been nothing more than actual commercial use of its batch cut process to migrate the lines of actual competitive carrier customers, thereby forcing competitive carriers to place their customers’ service in jeopardy in order to “test” the process.²¹ SBC also rejected the competitive carriers’ proposal that prior to the commencement of testing SBC should be required to, *inter alia*, incorporate certain scenarios (such as IDLC migrations) into the process that it had promised, provide competitive carriers with adequate documentation

actual physical provisioning of the cut (*i.e.*, the physical disconnection and reconnection of the loop).

²⁰ See Brief in Support of SBC Michigan’s Motion For Summary Judgement filed July 26, 2004, in *Michigan Bell Telephone Co. v. J. Peter Lark, et al*, Civil Action No. 04-60128 (U.S. District Court, Eastern District of Michigan), at 13-15. The District Court has not yet issued a ruling on SBC’s motion.

²¹ See SBC Michigan’s Joint Test Plan Proposal (Discussion Draft dated July 29, 2004) at 1, attached to Submission of Joint Test Plan Proposals filed August 10, 2004, in Michigan PSC

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concerning its process, and allow for development of performance measurements that would enable the parties to know what was measured during the actual test. In short, SBC's proposed "test" would simply be actual commercial usage of a process that did not even reflect the process which SBC has actually *offered*.

98. In late August, the parties filed comments advising the MPSC of the issues on which they disagree. At this time, it is unclear when the MPSC will issue a decision resolving these issues. Whatever the date of the MPSC's ruling on these issues, the impasse in the Michigan collaborative already has caused delay in the testing process. Furthermore, if SBC succeeds in its court action to enjoin the MPSC's order, it appears that SBC's proposed batch cut process will not be tested at all.

99. Verizon's proposed batch cut process also has not been subjected to independent third-party testing. Although Qwest and BellSouth have arranged for an evaluation of their proposed batch cut processes by an arguably independent third party, neither of these evaluations adequately tested the efficacy of the batch cut process.

100. Qwest commissioned a test of its proposed batch cut process by an independent third party – Hitachi. That test was a good first step and may have provided Qwest with some valuable input on how it can make improvements in the process. Nonetheless, the Hitachi test fell far short of what is truly required to make a full assessment of Qwest's proposed batch cut process.

Case No. U-13891 (stating that SBC's proposed test "is simply the commercial deployment of a new process in a managed manner").

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101. The Hitachi test was inadequate in three respects. First, it did not test Qwest's currently-proposed batch cut process. Hitachi conducted two "live trials." Each trial involved 25 or 26 lines in each of two central offices. The first Hitachi trial was conducted in December 2003, and the second trial in January 2004. The first trial, which involved a total of 48 hot cuts, tested the batch cut process that Qwest had *initially* proposed – and therefore did not include any of the revisions Qwest had subsequently made to the process (including the performance of pre-wiring two days prior to the due date and the implementation of a notification tool to advise competitive carriers of the status of hot cuts). Similarly, the second Hitachi trial – by Qwest's own admission – tested a process that failed to include many of the key components of the process that Qwest is proposing, such as: (1) interactive edits added to Qwest's OSS; (2) creation of an online status notification tool; (3) and automated updates to various Qwest systems.²²

102. Second, the Hitachi test was not robust. The test involved only 100 lines and three central offices over a period of one month.²³ This is plainly insufficient to test a new process that is intended to be used to migrate substantial volumes of customers of competitive carriers from the UNE-P to the competitive carriers' switches.

103. Furthermore, the Hitachi test was not blind. Qwest's own witness testified in proceedings before the Nebraska Public Service Commission that "[t]he trials were conducted with a high level of scrutiny from Qwest, Hitachi consulting and the participating competitive

²² See, e.g., Reply Testimony of Lorraine Barrick on behalf of Qwest before Nebraska PSC (Application No. C-3026), filed January 23, 2004, at 10-11 & Exhibit 6 ("Barrick Testimony").

²³ One of the central offices was used twice for each "live test."

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carrier.”²⁴ Obviously, a test cannot be “blind” to the frame technicians if there were “a number of people standing around the frame” watching their work. It is human nature to want to do one’s best when being “watched.” Qwest’s own witness conceded that this procedure may have affected productivity during the test.²⁵ Thus, the test was not a reliable indicator of the actual performance of the frame technicians assigned to batch hot cuts across Qwest’s region.

104. Other aspects of the Hitachi test precluded it from being robust. Hitachi, which was retained by Qwest to perform the test, did not solicit input from the competitive carriers (the parties that will actually use the process) or from the State commissions that must evaluate the process. The test also lacked a number of key elements necessary for a meaningful test, including clearly defined entry and exit criteria.

105. Third, the Hitachi test relied on assumptions by Qwest that were highly questionable. For example, Hitachi simply assumed, based on Qwest’s representations as to how the process is supposed to work when implemented, that the aspects of the process it was unable to test would work as advertised.²⁶ Hitachi also relied on the hot cut volume forecasts that it had been provided by Qwest, without conducting any inquiry to determine whether the forecasts were reliable.

106. The evaluation of BellSouth’s proposed batch cut process was even more flawed than Hitachi’s test of the Qwest process. Last year, BellSouth engaged

²⁴ Barrick Testimony at 41.

²⁵ *Id.*

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PricewaterhouseCoopers (“PwC”) to provide an “attestation” regarding the effectiveness of its batch cut process. PwC’s evaluation is of no value because the batch cut process that it evaluated is not the same process that BellSouth offers today. After PwC conducted its evaluation, BellSouth made several significant changes in its process, including the implementation of a status tool for non-coordinated hot cuts. Thus, the PwC “attestation” provides no indication of the efficacy and efficiency of the batch cut process currently in effect.

107. In any event, the PwC attestation amounts to the meaningless conclusion that the BellSouth process worked as designed – except for the instances when it did not. PwC, for example, opined that BellSouth utilized the bulk migration to complete a test of bulk migration requests, except for the deviations found in its report. AT&T, however, has never asserted that BellSouth could not perform multiple migrations (especially under conditions of its own choosing), using its bulk ordering process and individual hot cut process. PwC’s opinion does not address the issue of whether the batch cut process is the seamless, low-cost process that the Commission mandated in the *Triennial Review Order*. At best, PwC confirmed that BellSouth is able to migrate large volumes of lines even using an unacceptable process.

108. Moreover, the methodology and results of the PwC test are highly suspect. First, it is unclear in PwC’s report when and over what period of time the pre-wiring (the most time intensive part of the hot cut) was completed. Second, the report provides no information regarding how the non-hot cut central office work was handled. While much of such work could be postponed for a day during the time a special test is being conducted, that obviously is not the

²⁶ See *id.* at 11 (“The process improvements not available for testing will serve to expedite the process and create additional efficiencies. Therefore, actual performance should be better than

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case when the “test” or greater volumes continue in a business as usual environment. Third, BellSouth implemented 80 percent of the cutovers using non-coordinated cuts – its simplest method – in the test, even though such cuts comprise only 3 percent of migrations today.

109. Fourth, even while being observed by an outside group (PwC), which is likely to result in best behavior or performance, BellSouth’s batch cut process experienced numerous problems. Out of a total of 724 migrations, PwC noted deviations on 64 migrations – 9 percent of the total. These problems included missed due dates, no dial tone, no cut notification so that customer could not receive incoming calls, and failing to test for dial tone prior to cutting the customer. The fact that this myriad of problems, which occurred under ideal conditions, is the best case BellSouth could put forward, is troubling when contemplating unleashing this process on thousands of end-users every day in the BellSouth region.

110. By itself, the lack of comprehensive testing of the batch cut processes of the ILECs raises serious concerns. Those concerns, however, are compounded by the fact that the processes offered by Verizon, SBC, and Qwest also have had no experience in “live production.” Even after the details of a batch cut process have been defined, documented, tested and trialed in operation, it still must be utilized in a real-world environment before it can consistently be relied upon. A competitive carrier cannot afford to place the fate of its customers in the hands of a process that had never been utilized until such a process has been demonstrated to work in that kind of environment. Given the absence of real-world experience using these processes, only comprehensive third-party testing can even come close to determining how the processes perform.

that experienced in our testing”).

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111. Given the lack of meaningful testing of the ILECs' proposed batch cut processes, the Commission should require that such testing be performed before the process is generally made available to competitive carriers. As part of that requirement, the Commission should make clear that, at a minimum, the test must meet the following criteria:

- The test must be administered and conducted by an independent third party chosen by the test stakeholders.
- The test must be as blind as possible.
- The testing should not be conducted on a process in flux. Stated otherwise, the testing may proceed only after a "final" process has been adopted by the ILEC and after any related OSS development (including any necessary modifications) has been completed.
- The test administrator must solicit input from the competitive carriers and the State commissions for the test plan.
- Competitive carriers must be given the ability to monitor the test and receive the results in real-time.
- The test must include every step of the batch cut process, from the ordering process to the physical migration of the loop and the porting of the telephone number through to order completion. All migration scenarios (such as IDLC and competitive carrier-to-competitive carrier) must be examined from a logistics, scheduling, OSS, billing, customer care, and performance metrics standpoint.
- The test must involve a significant number of conversions that reflect the volume of hot cuts which can reasonably be expected if the UNE platform is no longer available to competitive carriers.
- The test must include numerous central offices which constitute a representative sample of large and small central offices (central offices that are not staffed as well as central offices that are staffed on a regular basis). The test administrator must have access to all of the ILEC and/or competitive carrier central offices used for the test.
- Success criteria and measurement standards for each stage of the test must be defined and agreed to by the parties involved prior to the start of the test.

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- The ILEC must ensure that it has sufficient staffing in place to handle the increased hot cut workloads, and that all personnel of the ILEC and the competitive carriers who are involved in the batch cut process during the test have been adequately trained in the process.
- The test plan must be filed by the test administrator with the State commission and be subject to comment by the parties.

112. The Commission should specifically require that any test of a batch cut process be conducted consistently with the test plan which AT&T and other competitive carriers recently proposed in the Michigan PSC's proceeding involving batch hot cuts. A copy of the competitive carriers' complete proposed test plan is attached hereto as Attachment 6. Under that plan, the operational aspects of the ILEC's proposed batch cut process should be tested in two stages. In Stage One, the test would simulate the migration of working "hot" lines from one carrier's switch to another carrier's switch using the ILEC's batch cut process and associated OSS. In this stage, only pseudo-customer or test lines would be used (rather than the live lines of ILEC retail customers or competitive carriers' customers) to minimize the risk that commercial end-user customers will suffer degraded service during the test. Testing would be conducted for 20 consecutive working days in each central office. The test would involve the daily hot cut volumes that can be expected in a competitive environment where the UNE-P is no longer available (and, therefore, are greater than those that the ILEC is currently experiencing). *See* Attachment 6 hereto, at 2-6.

113. In Stage Two of the test, the test would use the ILEC's batch cut process to migrate actual customer lines. The second stage would commence only after the first stage had been deemed complete and successful (*i.e.*, after the test administrator had issued written findings stating that the objectives of Stage One had been met and that the ILEC had passed the

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evaluation criteria). In this stage, competitive carrier “volunteers” would utilize the batch cut process to migrate their own customers from UNE-P or resale to their own switches or to switches of a third party. *Id.* at 2-3, 10. Stage Two would be performed for at least 20 business days in each affected central office to evaluate commercial results. In Stage Two, as in Stage One, any problems that were detected would be fixed as they occurred, with subsequent testing to ensure that the “fix” worked. *Id.* at 10-15.

114. Only if the Commission adopts these testing requirements can there be any assurance that, once implemented for commercial use, an ILEC’s batch cut process is seamless and efficient.

B. The Commission Should Require That In Any Batch Cut Process, Competitive Carriers Be Given Sufficient Control Over Their Customers’ Experience, Including the Timing and Date of the Cutover.

115. Competitive carriers are retail service providers. As such, their relationship to their customers is paramount. It is critical that competitive carriers be able to control as much as possible of their customers’ experience. Whenever a third party is involved, competitive carriers can easily lose that control, and are at risk. When the ILEC inserts itself into our relationship with the competitive carrier’s customers and their service, the competitive carrier has everything to lose if things do not “go right,” because the customer will blame its new carrier for any failure in the migration process.

116. Thus, having control over the customer’s experience is a central principle of AT&T’s business. Any process that would eliminate the ability of AT&T to control the experience of its customers means that the proposed process would not benefit those customers.

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117. Such control is particularly important in the context of hot cuts. At the time of the hot cut, the service of a competitive carrier's customers is at its most vulnerable. This is precisely the time when their service is interrupted, and at risk for significant interruption if anything goes wrong. Competitive carriers need to have as much control as possible over both the timing and the duration of the out-of-service condition. A customer can lose the ability to make and receive calls during the period between the disconnect of the loop from the ILEC's switch and the reconnection at the competitive carrier's switch. Even when all else goes as planned, the customer can still lose the ability to receive calls until number portability is accomplished by a notification to NPAC.

118. Customers expect their service provider to meet their needs. Generally, business customers prefer the complete out-of-service condition to occur during the evenings. Different businesses, however, have different needs. Businesses such as pizza shops, for example, prefer early daytime periods for their complete out-of-service condition. Serving these customers therefore requires attention to detail and individual customer needs.

119. The *Triennial Review Order* recognized the need for competitive carriers to have control of the timing of the cutover and other aspects of their customers' experience during the hot cut process. The Commission noted that the existing process for individual hot cuts, which it found to be so deficient, were "uniquely within the control of the incumbent LEC." *Triennial Review Order* ¶ 474 n.1465. Furthermore, the Commission found that "the hot cut process could be improved if cutovers could be done on a bulk basis, *such that the timing and volume of the cut over is better managed.*" *Id.* ¶ 474 (emphasis added).

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120. The batch cut processes offered by the ILECs, however, fail to provide the competitive carriers with the control that they need. The Commission therefore should establish uniform requirements that ensure that competitive carriers have sufficient control over their customers' experience during the process.

1. A Batch Cut Process Should Give Competitive Carriers the Maximum Possible Control Over the Timing of the Cuts.

121. Most importantly, the Commission should require that competitive carriers have control over the timing and sequence of the hot cut. The batch cut processes currently offered by BellSouth, Qwest, and Verizon give little or no such control to the competitive carriers. Although BellSouth and Qwest allow a competitive carrier to specify the *date* of the cutover under their respective batch cut processes, they will not honor a request by the competitive carrier that the hot cut be performed at a particular *time*. Instead, they only offer "time windows" – *i.e.*, a range of hours during which the cut will be performed. For coordinated batch cuts, BellSouth offers two time window options: from 8 a.m. until 12 p.m., and from 1 p.m. until 5 p.m. Qwest's batch cut policy specifies only that Qwest will perform batch cuts only between 3 a.m. and 11 a.m.

122. These procedures are clearly inadequate to give a competitive carrier the control it needs over the timing of the cutover. Under BellSouth's and Qwest's processes, a competitive carrier requesting migrations will know only that the batch cuts it requested will occur at some undefined time during a four-hour or eight-hour period. The competitive carrier has no idea precisely when the cutover will begin or when it can be expected to end. Given the wide range of time in these "windows," a competitive carrier cannot prepare for or monitor the cuts, and is unable to advise its customer precisely when the cutover will take place.

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123. These “windows” also inhibit a competitive carrier’s ability to meet its customers’ desires regarding the timing of the hot cut. BellSouth’s “windows,” for example, provide for performance of hot cuts only during daytime hours – rather than at night, which is the time that business customers generally prefer. Although Qwest’s “window” provides for cutovers during the middle of the night (beginning at 3:00 a.m.), Qwest does not perform cutovers during the “early evening” hours that some businesses prefer for their out-of-service condition.

124. Verizon’s batch cut process gives the competitive carriers even *less* control over the timing of the cutover. Under Verizon’s process, competitive carriers lose *all* control over the timing and duration of the complete out-of-service condition. With respect to timing, competitive carriers do not know at what point in the day Verizon will disconnect the loop from its switch and take the customer out of service. Indeed, competitive carriers in the Verizon region cannot even control the day of the week on which the cut will occur, a necessary requirement for some customers. Verizon simply notifies the competitive carrier three days in advance of the proposed due date on which Verizon intends to perform the cutover. The competitive carrier can only accept or reject the due date that Verizon proposes. If the competitive carrier rejects the proposed due date, the competitive carrier’s order goes back into the queue and must wait once again for Verizon to reach its central office-specific “critical mass” of batch cut orders (which could take up to 26 business days), at which point Verizon will once again propose a cutover date to the competitive carrier. With Verizon’s proposed process, the competitive carrier has no ability to select the date that works best for its customers.

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125. Verizon's arrangement is totally unacceptable, because Verizon has no economic incentive to staff, train and manage its operations to ensure that service to the competitive carrier's customer is performed promptly and without interruption. Like any other profit-maximizing firm, Verizon will focus its resources where it receives the best return – not on where it can best assist its competitors.

126. It is not commercially feasible to retain or sign up customers without the ability to accommodate their needs during the hot cut. Under Verizon's batch cut process, competitive carriers will have no way to know when the hot cuts will begin and how long its customers are out of service, since Verizon's process does not provide for notice to the competitive carrier as to when the cut begins and when it ends. A competitive carrier cannot be responsive to its customers' request asking when the out-of-service condition will begin if the competitive carrier itself does not know when it will occur. Additionally, a competitive carrier cannot be responsive to customer calls complaining of out-of-service conditions when it did not even know that the cut had begun or how long it took Verizon to complete the cutover.

127. There is no reason why an ILEC's batch cut processes cannot give competitive carriers the right to specify the date and time of the cutover. SBC's batch cut process, although flawed in other respects, permits competitive carriers to specify the precise date and time of the batch hot cuts. In addition, SBC will perform batch hot cuts on a 24-hour basis, with certain exceptions (such as cutovers of IDLC loops).²⁷

²⁷ Although it denies competitive carriers control over the timing of the cutover, Verizon has indicated that it will perform a cutover anytime within the 24-hour period on the due date. BellSouth, which offers only time windows under its batch cut process, allows competitive

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128. Verizon's batch cut process denies competitive carriers control over their customers' experience in other respects. For example, under the Verizon batch cut process, competitive carriers have no control over when the ported number will be activated in the NPAC database –leaving them unable to monitor the timeliness of the cut during the critical period between the cutover of the loop and the activation of the number port at NPAC. As a condition of utilizing Verizon's batch cut process, competitive carriers would be required to authorize Verizon to submit the final number-port activation order to NPAC in place of the competitive carrier. Verizon is the only RBOC that has adopted such a requirement.²⁸

129. Only after the number port is activated in the NPAC database is the competitive carrier's customer able to receive telephone calls. During that interim period, the competitive carriers' customers can make calls but will not receive calls, thus resulting in a partial out-of-service condition. Yet, in order to use Verizon's batch cut process, the competitive carrier would have to cede all control as to how long, after the loop itself has been cut over, the number port is activated at NPAC. Competitive carriers will be completely at the mercy of their principal competitor to ensure that their customers' service is not compromised. Given that

carriers using its *basic* hot cut process to obtain a specific time (hour) for the individual hot cut if they pay an additional amount. In that respect, BellSouth's batch cut process is even worse than its basic hot cut process.

²⁸ Verizon Initial Panel Testimony, October 24, 2003, pp. 36-37. BellSouth suggested this approach as a possible method of notifying NPAC during the State proceedings on the *Triennial Review Order*, but has not offered it commercially.

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Verizon has no incentive to assist its competitors, such an arrangement is completely unacceptable to competitive carriers such as AT&T.²⁹

130. The competitive carrier's loss of control over the timing of the activation of the ported number at NPAC results in other service quality problems. Because Verizon, rather than the competitive carrier, will be submitting the number activation order to NPAC (and thus will control the timing of the activation request), competitive carriers also will lose the ability to test for connectivity after the line has been cut and before the number port has been activated at NPAC. When the competitive carrier can perform this test prior to the activation of the number port, and finds that there is no connectivity as a result of a faulty hot cut, Verizon can easily reinstate the customer's UNE-P service until the problem can be repaired. This practice is sometimes described as a "throwback." However, once the number port has been activated, the restoration process is much more difficult and complex, and can take hours (instead of minutes). As a result, the costs to the competitive carrier, both in internal resources and in damage to its reputation, are significant. The costs to the customer are obvious.³⁰

²⁹ Even if there were performance standards and penalties to create the correct incentives for Verizon to activate numbers in a timely manner, it is doubtful that such an arrangement could ever be satisfactory to competitive carriers, because it is questionable whether the data reported by Verizon would accurately measure the actual duration of an out-of-service condition. This is because the measurement of the period between the completion of the hot cut and the activation of the number depends upon the self-reporting of Verizon technicians as to the time of the hot cut, rather than upon automated time stamps.

³⁰ The problems caused by Verizon's insistence on control over the timing of the hot cut and the activation of the customer's telephone number at NPAC are compounded by its policy, under its proposed batch cut process, to perform wiring and dial tone checks on the date of the cutover itself, rather than one or two days prior to the cutover. AT&T has serious concerns about the consequence to its customers' service if Verizon does not perform the pre-wiring work and dial tone check ahead of time. Verizon has left itself no cushion, or margin of error, if problems are encountered at the main distribution frame during the day of the hot cut. Thus, Verizon's policy

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131. This is not a trivial matter. Even when it has tested for dial tone two days prior to the date of the cut, AT&T has sometimes experienced lack of connectivity immediately following the cut. Under Verizon's current process for individual hot cuts, Verizon notifies the competitive carrier that the cut has happened, and the competitive carrier can then perform the continuity testing prior to the activation of the number port. This testing allows the competitive carrier to quickly identify a problem and request a throwback if it cannot be readily resolved, thereby minimizing the out-of-service impact to the customer. It also gives the competitive carrier the ability to quickly troubleshoot the problem with the Verizon technician to resolve the issue and prevent the need for a throwback. In the absence of the competitive carrier's participation at this stage, extended outages will occur and throwbacks will be more difficult to accomplish – because they will occur after number port activation. All of this will result in increased customer dissatisfaction, and damage to the competitive carrier's reputation.

132. In addition to denying competitive carriers control over the timing of the cutover and the porting of the customer's telephone number, Verizon's batch cut process denies competitive carriers control over the sequence of the hot cut. Control over the sequence and start times of the various hot cuts would enable competitive carriers more effectively to prepare their

fails to account for unexpected contingencies that could affect its ability to do the work on the day of the cut, such as snowstorms or other weather emergencies, unexpectedly high absenteeism, or an unusually high incidence of problem cuts in a particular central office on a particular day. Verizon's policy is indefensible, since Verizon performs these tests *two days in advance* of the cut in its basic hot cut process and in project managed cutovers. Other ILECs such as SBC, also perform these tests two days in advance. Verizon cannot justify the same-day policy on the ground that it is assuming increased risks in order to reduce its costs, because those cost savings are clearly not passed on to the competitive carriers in the form of lower rates. Instead, as discussed in Part V below, Verizon's rates for its batch cut process are unreasonably high.

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customers for the migration experience and will minimize the impact of these cutovers on many call features such as hunting, call forwarding and speed dialing.

133. Under Verizon's batch cut process, however, Verizon's technicians are allowed to "cut" lines in the sequence that is most convenient to them, without regard to the end-user customer or to the competitive carrier's operations. This practice may be more efficient for Verizon, because it allows the technicians to work on the lines associated with the batch in the order in which they are located on the frame. But Verizon's control over the sequence of the cuts leaves the competitive carrier and its customers even more "in the dark" as to the start and completion times of the cut. For example, when working on a batch project of 100 lines, Verizon might cut the first line of a multi-line customer at the start of the batch project and not complete all the lines for that same customer until hours later, at the end of the batch job. When competitive carriers have raised the sequencing issue with Verizon, Verizon has simply responded that if the sequence of line cutover is a concern for the competitive carriers or their customers, then a competitive carrier should not use the batch cut process for multi-line customers.

134. The competitive carrier's lack of control over the sequence of the hot cuts are a particular problem when, as is often the case, the cuts involve multi-line business customers. Business customers with several lines often have established features that require all lines to be working together. A "hunting" feature is a prime example of such an arrangement. If a customer has a hunting feature, a call to any one of a customer's lines will automatically be redirected to a free line if the called line is busy.

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135. In certain situations, the hunting feature could be compromised or disabled when a hot cut is performed under Verizon's batch cut process. Some multi-line customers with a hunting feature may have added lines over a long period of time. Lines added recently may connect to the MDF at entirely different places on the frame than lines previously connected. When implementing a batch hot cut, Verizon's technicians will likely move down the frame, cutting lines over in the order in which they appear on the frame. As a result, some lines of the multi-line customer might be cut over well before other lines. The effect would be to disable or compromise the hunting feature during the time that some, but not all, of the lines have been cut.³¹

136. Like Verizon, BellSouth denies competitive carriers the right to specify the sequence of the batch cut. SBC, however, *does* allow competitive carriers using its batch cut process to specify the sequence. Consequently, it is clear that the policies of Verizon and BellSouth are based not on problems involving technical feasibility, but rather on their own policy decisions.

137. Finally, Verizon's proposed batch cut process would deny AT&T control over the timing of any changes that its business customers (and thus AT&T) wish to make to their accounts. To qualify for a batch hot cut of a retail customer, the competitive carrier must first issue an order to Verizon to place the customer on a "UNE-P-like" arrangement. Once that

³¹ Under Verizon's batch cut process, the duration between the first line cut and the last line cut could be as long as 24 hours, since Verizon proposes to perform batch hot cuts without an appointed hour within a day. Under its proposed batch cut process, Verizon could start a cut just after midnight on one shift and finish the batch just before midnight of the next day and still consider (and report) its performance as "on time" even though this is a day-long outage from the customer's perspective.

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order has been completed, the competitive carrier issues a subsequent order to have the same customer migrated to its own switch using the Verizon batch process. During the period when the customer is on the UNE-P-like arrangement and the batch order is pending against the customer's account to move that customer's line to a UNE-L arrangement, Verizon permits no service changes on the customer's account until the pending batch hot cut order is either completed or cancelled. Under Verizon's process, Verizon may hold the batch hot cut order for a maximum of 26 business days if the number of lines in the order fails to meet its central-office-specific minimum volume requirements.³² Thus, when a competitive carrier submits a batch order and the customer subsequently requests a change in its service, it may take more than five weeks before the changes can be implemented.³³

³² If, after 26 business days, the total number of lines for which the competitive carrier has requested batch cuts does not exceed Verizon's specified minimum volume requirement ("critical mass"), Verizon will proceed to process the competitive carrier's order.

³³ In theory, a competitive carrier could avoid the "freeze" of the customer's account by canceling the pending batch cut order when a customer requested a change to its account, making the changes to the customer's account, and then submitting a new batch cut order. However, such a solution would not be commercially feasible. Verizon charges competitive carriers each time an order is submitted and then cancelled. In addition, canceling and resubmitting the order would increase the competitive carrier's internal administrative costs. But it is worse than that. Resubmitting the batch order would restart the "26-day clock" all over again. Furthermore, every time a competitive carrier submits a hot cut order to Verizon, it sets in motion a series of events in Verizon's OSS that can be difficult to control. For example, a "disconnect" order for the UNE-P arrangement is automatically generated. If the order is cancelled in order to make changes to the account, there is a risk that the disconnect order associated with the now-cancelled order will not be caught and the customer could lose service altogether. While this should not happen if everything is working correctly, it is AT&T's experience – based on tens of thousands of hot cuts – that everything does *not* always work correctly. On numerous occasions, AT&T's disconnect orders have not been caught in time and customers have lost their service. Given the far greater volumes of hot cuts that would be experienced in a world without the UNE-P, the incidence of customer outages will almost surely increase, perhaps significantly, if competitive carriers cancelled UNE-L orders every time one of their customers requested a change on their account within Verizon's initial holding period.

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138. Verizon's imposition of a "freeze" on the customer's account for as long as 26 business days before the actual conversion to UNE-L is unique among the ILECs; SBC, Qwest, and BellSouth do not maintain such a policy. Verizon's policy creates a potential problem for every customer during this critical period. Customers will be unable to remove lines, add or modify features, or even to do something as simple and common as changing their primary interexchange carrier. They will not understand why they cannot do so, and they will blame their new carrier for failing to fulfill what, for them, seem perfectly reasonable commercial requests. This puts competitive carriers at a significant competitive disadvantage.

* * *

139. If the ILECs are allowed to deny the competitive carriers control over the timing and sequence of the cutovers in their batch cut processes, the batch cut processes will produce the same (or possibly worse) service quality problems and inefficiencies that characterize the basic hot cut process. The Commission should therefore expressly require that any batch cut process give the competitive carriers the right to: (1) specify the date and hour on which the actual cutover will take place; (2) specify the sequence in which the hot cuts in the batch should be performed; and (3) provide the competitive carrier with real-time completion notifications to allow the competitive carrier to perform its continuity testing and to notify the NPAC that the customer's number is ready to be ported.

140. The Commission should also make clear that, in order to have meaningful control over the timing of the batch cuts, the competitive carrier should have the right to request cutovers on a 24-hour-per-day basis. SBC's batch cut process already incorporates such an approach. We recognize that exceptions to a 24-hour policy may be appropriate in

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circumstances where a dispatch outside the central office would be required to perform the cutover in nighttime hours. For example, SBC will not perform cutovers of IDLC lines at night because they would require the dispatch of a technician to the serving area interface, which is located remotely from the central office. However, the burden should be on the ILEC to show the necessity for any exception to a 24-hour policy.³⁴

141. Finally, the Commission should prohibit ILECs from “freezing” a customer’s account while the batch cut order is pending. Such a practice has no legitimate purpose, and only inhibits a competitive carrier’s ability to meet the needs of its customers.

2. ILECs Should Be Required To Implement Efficient Restoral Mechanisms As a Part of Any Batch Cut Process.

142. On some occasions, hot cuts fail. If the failure occurs during the physical disconnection and reconnection of the loop, the customer will be totally without service. If the failure occurs during the process of porting the number, the customer will be unable to receive incoming calls.

143. It is critical that when such failures occur, the batch cut process includes sufficient mechanisms that will enable the customer’s service to be restored promptly to UNE-P service until the problems causing the failure have been repaired. Absent such a process, the competitive carrier has no control over the time at which service will be restored. Instead, the

³⁴ Even when an exception is warranted, the ILEC should be required to bear the responsibility of informing the competitive carrier that particular lines in a batch fall within the exception, rather than require the competitive carrier to use pre-ordering interfaces or other means to determine whether each of the lines in the batch falls within the ILEC’s 24-hour policy. Such a line-by-line determination would be a time-consuming, expensive process.

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ILEC will have total discretion as to the time of restoration, and the customer will be totally or partially without service, possibly for a prolonged period.

144. BellSouth and SBC, however, have not implemented procedures to ensure the prompt restoral of service. Instead, they promise only that they will restore the customer to service within 24 hours after receiving notice from the competitive carrier. This commitment is inadequate for competitive carriers such as AT&T. Business customers cannot, and will not, tolerate interruptions in service as long as 24 hours. Instead, they will blame the problem on the competitive carrier and cancel their service.

145. There is no reason why an ILEC should take as long as 24 hours to restore a customer's service. The restoral process should take the ILEC no longer than minutes to complete, after it has been notified of the problem, because the wires from the preexisting connection remain in place for at least 24 hours after the cutover. Restoring the customer's service simply requires that the "new" connection to the competitive carrier's collocated equipment be lifted from the customer's loop appearance on the frame and the "old" wires that go to the ILECs' switch port be reconnected. As long as the ILEC keeps this connection installed on the frame following the hot cut, this restoration process is quite simple.

146. The Commission therefore should require ILECs to restore a customer's service within one hour after being notified by the competitive carrier that a hot cut failed. The Commission should further require that, after receiving notice from the competitive carrier that the hot cut has failed, the ILEC provide the competitive carrier with electronic notification of the cause of the failure, the means by which the ILEC will remedy the failure, and the estimated time when the customer can be migrated to an unbundled loop.

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C. The Operations Support Systems Used In Connection With Batch Cut Process Should Be As Automated As Possible, and Should Provide Competitive Carriers With the Ability To Monitor the Status of Their Batch Cut Orders Effectively and Efficiently.

147. A batch cut process cannot be “seamless” and “low-cost” for competitive carriers unless the ILEC provides the competitive carriers with adequate operations support systems associated with that process. Competitive carriers need an OSS that not only will enable them to track their batch cut orders efficiently and effectively, but also will process their orders on a fully automated basis without manual intervention.

148. First, competitive carriers need access to OSS that promptly provide them with adequate information about the current status of their batch cut orders. Such information is critical to a competitive carrier’s ability to manage the batch hot cut process and minimize service disruptions to its customers. By contrast, if, for example, a hot cut fails and the competitive carrier is promptly notified of the hot cut completion, the competitive carrier can work with the ILEC to minimize loss of the customer’s service (for example, by temporarily restoring the customer to UNE-P service). If the competitive carrier is not promptly advised of the completion by the ILEC, it may result in a call from an irate business customer complaining of a disruption in its service – and the competitive carrier will have absolutely no information with which to respond. In addition, competitive carriers need to know, in real time, the results of testing for dial tone that the ILEC performs in connection with the cutovers, in order to determine whether the cutovers should proceed as scheduled.

149. Second, competitive carriers need access to OSS that flow their batch cut orders through the ILEC’s systems, from front end to the ILEC’s back end provisioning systems,

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without “falling out” for manual intervention. Any manual work involved in order processing creates a far greater likelihood of errors and delay

150. The ILECs, however, currently do not provide the type of automated status notification systems and order processing systems that are necessary for an adequate batch cut process. Consequently, the Commission should require ILECs to: (1) provide a single, automated notification system which gives carriers the information and functionalities that will enable them to monitor the status of their orders, take any necessary corrective action, and exchange status information through that same system, in real time, with the ILEC; and (2) provide the maximum possible flow-through capability for all hot cut orders (at least equal to that for UNE-P orders).

1. ILECs Should Be Required To Provide an OSS That Provides Competitive Carriers With Adequate Status Information on Batch Cut Orders on a Fully Automated, Real-Time Basis.

151. The Commission should require ILECs to provide a single, fully automated system (a “notification tool”) that enables competitive carriers, at any stage of the process from order submission through the completion of the batch hot cut order, to: (1) monitor, track, and verify their batch hot cut orders; and (2) take corrective action promptly in response to problems that arise during the process. That system should provide status information directly to the competitive carrier’s own systems concerning its batch hot cut requests, in real time. The ILEC’s notification tool should also enable the competitive carrier to exchange status information, through that same system, directly with the ILEC.

152. Any notification system is adequate only if it provides a competitive carrier with the status information that it needs to monitor the progress of its batch hot cut orders

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and to respond promptly to any problems that arise. Thus, a notification system should electronically provide competitive carriers, at a minimum, with the following information on a real-time, basis:

- Notification that the order has been accepted by the ILEC. Such notification would include the projected date and time of the batch cuts, the ILEC order number, the purchase order numbers of the competitive carrier, the telephone numbers of the lines involved, and the circuit IDs of the ILEC.
- Any “provisioning issues” that affect the performance of the requested cutovers. These would include, for example, instances when the customer is currently served through IDLC facilities or non-copper facilities such as fiber, when facilities are unavailable, or when the customer’s loop cannot support the data speeds necessary to provide services such as DSL.
- Notification that the order is otherwise in jeopardy.
- Notification that dial tone checks or any other tests have been performed, and the results of those tests.
- Notification that the order is pending (and thus has not been completed).
- Notification, immediately after the hot cut has been performed, that the requested batch cuts have been completed (so that the CLEC can immediately notify NPAC) and identification of the ILEC technicians who performed the physical cutovers (information that the competitive carrier would need to facilitate resolution of troubles).

153. In addition, the notification system should give the competitive carrier the ability to download, sort, and store in its own systems the status information that it receives from the ILEC, in the manner that best meets its needs. Upon receiving status information, competitive carriers will typically wish to download it and to store it in their own systems. Thus, the competitive carrier should be able to sort and download all of the information, or do so on a selective basis. Similarly, the competitive carrier should have the ability to sort the information by location, by date, or by order status.

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154. To make the storage of status information in the competitive carrier's own systems as efficient a process as possible, any electronic status notification system of the ILEC should be designed to enable a competitive carrier to store the information into its systems electronically, at minimal time and cost. The notification tool should not be designed in a way that would require the competitive carrier to manually re-type the information into its own systems in order to store it. Such a task would be extremely costly and time-consuming.

155. In order for competitive carriers to use the notification tool efficiently, an ILEC also needs to provide them with an interface by which the competitive carrier can directly access that tool. For example, the ILEC could provide such access through XML using the HTTPS delivery protocol, or through a web GUI.

156. Moreover, the OSS should enable *both* parties – competitive carrier as well as ILEC – to exchange status information on the same notification tool. Competitive carriers need the ability to notify the ILEC promptly regarding the status of their batch cut requests. When a competitive carrier detects an issue before the due date of the cutover (whether the issue is with the customer, the competitive carrier, or the ILEC), the competitive carrier should have the ability to use the notification tool to electronically advise the ILEC of the problem in an effort to correct the problem before the due date. And if the ILEC asks the competitive carrier for the “green light” to go forward with a hot cut, the competitive carrier needs to be able to respond quickly, using the same notification tool. Once the OSS received such information from the competitive carrier, they could automatically disseminate the information to the ILEC personnel involved in the batch cut. Currently, ILECs can use such

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methods as XML and the web GUI to provide two-way communications over the same notification tool between the ILEC and the competitive carrier.

157. Absent the ability to communicate directly with the ILEC's OSS, a competitive carrier would be forced to utilize more manually-intensive means that would delay receipt of the information by the appropriate personnel at the ILEC. For example, if the competitive carrier communicated the information by telephone or e-mail, the ILEC personnel who received the information would then be required to disseminate the information to the appropriate personnel and enter the information into the OSS. This process would necessarily take longer than the electronic transmission of the information directly from the competitive carrier's systems to the ILEC's OSS.

158. Development of OSS that meet these various requirements is plainly technically feasible. For example, Verizon's notification tool, WPTS, generally meets the requirement of a notification tool that provides the above-referenced status information and functions electronically, in real-time. WPTS also allows two-way communications over the same tool between Verizon and the competitive carrier.³⁵ Verizon provides two methods of

³⁵ In its recent order regarding hot cuts, the New York Public Service Commission described WPTS as follows:

WPTS was created by Verizon to facilitate communications between the CLEC and Verizon work teams. An innovative system unique to Verizon, WPTS automatically retrieves information on hot cut orders from Verizon's Operations Support Systems (OSSs) and serves as a clearinghouse for a wide range of data on the progress of those orders, providing a secure web site on which authorized CLEC and Verizon personnel can view and download status information.

NYPSC Case 02-C-1425, *Proceeding on Motion of the Commission to Examine the Process and Related Costs of Performing Loop Migrations on a More Streamlined (e.g., Bulk) Basis*, Order

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direct access to WPTS: XML utilizing the HTTPS delivery protocol, and the Web GUI.³⁶

WPTS has been in operation, and has been used by competitive carriers, for the past three years.

159. In some respects, WPTS still falls short of meeting the requirements for an adequate notification tool in the context of requests for simultaneous cutovers of large volumes of loops. For hot cuts requested under Verizon's "project managed" process, WPTS still does not provide the results of dial tone checks or notification that the hot cuts have been completed (instead, Verizon notifies the competitive carrier of the completion by telephone each time a cutover has occurred).³⁷ Nonetheless, the development of WPTS demonstrates that ILECs have the capability to provide competitive carriers with status notification systems that meet their needs.

160. Other ILECs also have not implemented notification tools that provide competitive carriers with sufficient status information and functionalities and allow two-way exchanges between competitive carriers and the ILEC. BellSouth still has not implemented a notification tool that would fully advise competitive carriers of the status of batch hot cuts. Although BellSouth implemented a web-based notification tool for *non*-coordinated batch cuts in July 2004, it has not implemented a notification tool for coordinated batch cuts. Based on

Setting Permanent Hot Cut Rates, issued August 25, 2004, at 13 (footnotes omitted) ("*NYPSC Hot Cut Rate Order*").

³⁶ Until recently, WPTS was a graphical user interface that could not be integrated with a competitive carrier's systems. Under pressure from the Staff of the New Jersey Board of Public Utilities, Verizon developed an XML-based protocol that now allows system-to-system interactions, thereby enabling competitive carriers to store status information in their own systems electronically, without re-typing it.

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BellSouth's own data, the notification tool for non-coordinated hot cuts can be used for only approximately 3 percent of hot cuts.³⁸

161. BellSouth's current notification tool is plainly inadequate even for non-coordinated batch cuts. Competitive carriers cannot send communications to BellSouth through its notification tool. Moreover, the tool fails to provide significant information about an order's status. For example, the tool does not: (1) provide order confirmation, the telephone numbers of the hot cuts being performed, or the names of the ILEC technicians performing the cutovers; (2) advise the competitive carrier when non-copper facilities are involved or when the loop is unable to support the data speeds requested; (3) provide the results of dial tone checks; or (4) immediately notify a competitive carrier after the hot cut has been completed.³⁹ Moreover, as it is currently designed, BellSouth's tool cannot be integrated into the competitive carrier's own systems. BellSouth's tool is also burdensome for competitive carriers to use, because they must periodically check the notification tool for status information, rather than receive such information in their own systems from BellSouth.

162. SBC's systems are equally inadequate in providing status information. Competitive carriers in the SBC region must use several different interfaces, rather than a single

³⁷ When individual hot cuts are performed under Verizon's basic hot cut process, WPTS will not provide notification that the cut has been completed if the loop is a "clean" loop (a loop free of bridge taps and load coils) that can support high-frequency services, such as xDSL services.

³⁸ See Direct Testimony of Alphonso J. Varner filed December 3, 2003 in Florida PSC Docket No. 030851-TP, at 30 ("Over the 12 month period from September 2002 to August 2003, the average volume for non-coordinated cuts was less than 3% of the total volume for all conversions").

³⁹ BellSouth takes as long as two hours after completion of the hot cut before notifying the competitive carrier via its notification tool.

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notification tool, to obtain all of the status information that they need. For example, competitive carriers receive jeopardy notices for hot cut orders through SBC's regular ordering interfaces (such as EDI). However, such carriers must use SBC's separate "PWS" web site in order to obtain, among other things, recent order completion information and the results of dial tone checks and ANI tests.⁴⁰ PWS is only a one-way system that does not enable competitive carriers to respond directly to SBC.

163. Like BellSouth, SBC also fails to provide sufficient status information. SBC's jeopardy notices are so generic that a competitive carrier must contact SBC by telephone to determine the precise nature of the problem. The completion information which SBC provides – information that a competitive carrier must have before it can contact NPAC – is not "real-time," because it can be as long as two hours old.⁴¹ SBC's OSS further burden competitive carriers by requiring them to monitor PWS constantly for status information, rather than provide it directly to the carrier's systems.

164. Qwest's performance in this area is perhaps the worst of all the ILECs. Unlike other ILECs, Qwest has implemented *no* status notification tool associated with its batch cut process. Currently, Qwest notifies competitive carriers of the completion of a hot cut only by

⁴⁰ An ANI (automatic number identification) test determines whether the telephone number of the line that was cutover is the same as the number requested in the competitive carrier's order.

⁴¹ Although competitive carriers receive completion notices through the EDI interface, SBC can take one or more days before returning such notices. SBC has suggested that competitive carriers could obtain real-time completion information by using their switches to "trap" information that SBC has performed an ANI test on the line – which would indicate that the cutover had been completed. There is no reason, however, why SBC cannot provide such information to competitive carriers on a real-time basis through its OSS, rather than require them to resort to self-help mechanisms.

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telephone. In its recent agreement with MCI, Qwest stated that it was developing such a tool, but promised only to use its “best reasonable efforts” to implement that tool by December 31, 2004, when its IMA release 16.0 is scheduled for implementation. Like the current tools of BellSouth and SBC, however, Qwest’s tool will not be integratable with a competitive carrier’s systems.

165. The lack of adequate, interactive notification tools imposes a substantial burden on competitive carriers. Without adequate status information, competitive carriers are unable to know the progress of their orders and to deal with problems as soon as they arise. Without the ability to communicate directly with the ILEC through such tools, competitive carriers must use indirect means to communicate, thereby delaying the transmission of status information that the ILEC needs to know in connection with the batch cut. Unless the ILECs provide notification tools that provide competitive carriers with the necessary information and capabilities, the batch cut process is unlikely to be an improvement over the current basic hot cut process. Therefore, the Commission should require that the ILECs: (1) electronically provide competitive carriers with the status information and functionalities described above, in real-time, through a single notification tool or system; and (2) provide competitive carriers with the ability to exchange status information with the ILECs, using that same tool or system.

2. ILECs Should Be Required To Maximize the Flow-Through Capability of Batch Cut Orders.

166. A batch cut process will not be more seamless or less costly than the current basic hot cut process unless the ILEC maximizes the flow-through capability of batch orders for batch cuts. Manual processing of orders creates a significant likelihood of errors and delays in the provisioning of those orders, including disruption of the end-user’s service. It also increases the costs of both the ILEC and the competitive carrier.

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167. For example, when a service request flows through the ordering OSS without manual intervention, BellSouth is required to return a rejection in one hour or a FOC in 3 hours. However, if the LSR falls out for manual handling, that interval is 7 to 10 business hours, which in most cases means that the order may be delayed by a full day if it does not flow through.

168. Thus, in order to make the batch cut process as effective as possible, ILECs must maximize the flow-through capability of batch cut orders, so that those orders will flow through the ILEC's entire OSS, including its "back-end" systems, without manual intervention. The flow-through rate for batch migration orders should be equal to that for UNE-P orders, most of which flow through without human intervention – and are provisioned on the same day as the submission of the order. A batch cut process simply seeks to migrate customers from service through the UNE-P to service through UNE loops. There can be no justification for subjecting batch cut orders to a higher frequency of manual intervention than for orders seeking to provide the exact same service through the UNE-P.

169. The ILECs, however, have not provided suitable flow-through capability to date for the hot cut orders implemented through their basic hot cut processes. For example, although competitive carriers have repeatedly requested Verizon to eliminate manual fall-out caused by the design of its OSS, according to Verizon's hot cut cost studies more than 45 percent of hot cut orders submitted to Verizon fall out for manual processing. In New Jersey, AT&T determined that more than 99 percent of this manual fall-out was due to the design of Verizon's OSS or to processing errors within Verizon's OSS – not to ordering errors by the competitive carriers. Recognizing this fact, the New York Public Service Commission recently warned

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Verizon that it “should be able to refine the ordering stage of hot cuts such that orders should ‘flow through’ Verizon’s computer systems 95 percent of the time.” *NYPSC Hot Cut Rate Order* at 4.

170. In the regions of other ILECs, the flow-through rates for hot cut orders have been no better, and sometimes even worse, than those of Verizon. According to BellSouth’s response to an interrogatory in the Georgia Public Service Commission proceeding regarding hot cuts, the percent of orders migrating service to UNE-L which were manually handled by BellSouth in Georgia were significant: 48.9 percent in June 2003, 42.2 percent in July 2003, and 60.1 percent in August 2003. By contrast, the percentage of UNE-P migration orders requiring manual handling in June, July and August, 2003 were 10.5 percent, 11.9 percent, and 9.5 percent, respectively. Thus, approximately half of the orders migrating service to the UNE-L were handled manually, compared to only 11 percent of orders migrating service to the UNE-P.⁴²

171. The ILECs’ relatively low flow-through rates for orders for individual hot cuts bodes ill for their batch cut processes. If a high percentage of batch cut orders fall out for manual processing, the incidence of errors and delays will be substantial, since the volume of requests for cutovers will increase many-fold under a batch cut process. Additionally, the manual processing significantly increases the cost of the batch cut process. Yet, despite the

⁴² See BellSouth Response to AT&T Interrogatory No. 28 in Georgia PSC Docket No. 17249-U. Although SBC does not provide flow-through data disaggregated for hot cut orders, SBC’s reported data show that in the SBC’s Midwest region (the former Ameritech region), approximately 29.4 percent of all UNE-L orders fell out for manual processing from June 2004 through August 2004.

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requests of competitive carriers for more flow-through capability, the ILECs have not responded, and the State commissions have not acted.

172. Consequently, as part of its requirement of a seamless and low-cost batch cut process, the Commission should require ILECs to modify their OSS to maximize the flow-through capability of batch cut orders. At a minimum, the ILEC should be required to design its OSS to provide the same flow-through capability for batch cut orders as that for UNE-P orders, unless the ILEC offers compelling reasons why it cannot do so.

V. THE COMMISSION SHOULD AGAIN REQUIRE THAT RATES FOR BATCH HOT CUTS BE TELRIC-COMPLIANT.

173. In a batch cut process, as in the basic process for individual hot cuts, the competitive carrier will be required to pay a non-recurring cost (“NRC”) to the ILEC for each hot cut performed. The NRC, however, is only part of the total costs that a competitive carrier will incur in a batch cut process.

174. For any UNE-L order, a competitive carrier will incur significant operational and labor costs to prepare, track, and implement its orders. These costs include the following work activities: (1) connecting facilities assignments (“CFA”) inventory management; (2) performing dial tone and conformance testing; (3) internal pre-cut and day-of-cut coordination with the ILEC; (4) the separate systems and activities required to support number portability; and (5) tracking the progress of the hot cuts until the ILEC has confirmed that the cutover has been completed. In addition, if a business customer wishes the conversion to be completed during “non-business” hours, the competitive carrier likely will be required to pay overtime for any involved personnel of the competitive carrier *and* the ILEC. Critically, the

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competitive carrier will never recover these internal costs if it loses the customer as a result of problems incurred during the hot cut itself, or in situations where the industry is experiencing rapid customer churn.

175. Given the significant level of the competitive carriers' internal costs, it is critical that the Commission ensures that the NRCs paid by competitive carriers for batch cuts are reasonable. If the NRCs are too high, the competitive carrier will find it uneconomical to serve customers and will likely abandon any attempt to serve those customers through its own switches or even through the switches of a third party.

176. In the *Triennial Review Order*, the Commission found that the NRCs that competitive carriers are required to pay for individual hot cuts under the basic hot cut process are often so high that they constitute a significant economic barrier which prevents competitive carriers from using their own switches to serve significant volumes of customers.⁴³ For example, the Commission stated:

Although hot cut costs vary among incumbent LECs, we find on a national level that these costs contribute to a significant barrier to entry. WorldCom submitted hot cut non-recurring costs (NRCs) for several states, with an average non-recurring charge of approximately \$51, with several states having NRCs in excess of \$100. According to WorldCom, in New York, the hot cut NRC will soon rise to \$185 (from \$35) for each line served. Z-Tel's analysis of the New York market indicates that even if the switch

⁴³ See, e.g., *Triennial Review Order* ¶ 422 ("Inherent difficulties arise from the incumbent LEC hot cut processes for transferring DS0 loops, typically used to serve mass market customers, to competing carriers' switches. These hurdles include increased costs due to non-recurring charges"); *id.* ¶ 459 (the non-recurring costs associated with hot cuts are among the barriers that "make it uneconomic for competitive LECs to self-deploy switches to serve the mass market"); *id.* ¶ 465 ("hot cuts frequently lead to provisioning delays and service outages, and are often priced at rates that prohibit facilities-based competition for the mass market").

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itself, collocation, and maintenance were free, with a non-recurring hot cut charge of \$185 per line, it would not be economic to deploy a switch to serve mass market customers in New York. In addition to the high non-recurring charges imposed by the incumbent LECs, the evidence in the record shows that hot cuts also require significant internal resources and expenditures which must be borne by the competitive LEC. Thus, the record evidence indicates that the non-recurring costs associated with cutting over large volumes of loops would likely be prohibitively expensive for a competitive carrier seeking to provide service without the use of unbundled local circuit switching.⁴⁴

177. In mandating the development of batch cut processes, the Commission made clear that such processes could not be “low-cost” if the ILECs’ NRCs for such processes were higher than the maximum rate levels permitted under its Total Element Long-Run Incremental Cost (“TELRIC”) methodology. Thus, the Commission held that “if they have not done so already, *state commissions should adopt TELRIC rates for the batch cut activities they approve.*” *Triennial Review Order* ¶ 489 (emphasis added). The Commission further stated that “These [batch cut] rates should reflect the efficiencies associated with batched migration of loops to a competitive LEC’s switch, either through a reduced per-line rate or through volume discounts.” *Id.*; *see also* 47 C.F.R. § 319(d)(2)(ii)(A)(4). Thus, the Commission expected NRCs for batch cuts to be TELRIC-compliant and significantly lower than the NRCs charged by ILECs for individual hot cuts, given the efficiency gains achieved by submitting hot cut requests for numerous lines in one batch, rather than on a line-by-line basis.

178. That, however, has not happened. In many States, the rates which the ILECs either have proposed, or have been permitted to charge by State commissions, for batch

⁴⁴ *Id.* ¶ 470 (footnotes omitted).

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hot cuts are clearly in excess of TELRIC levels. Many of the NRCs even exceed the \$51.00 level that the *Triennial Review Order* cited as an example of significant barrier to entry.

179. **Verizon.** Verizon’s proposed and actual NRCs for its batch cut processes are far too high. For example, in five States in Verizon’s service region (New Jersey, Massachusetts, Maryland, New York, and Rhode Island), Verizon proposed NRCs ranging from \$55.40 in Massachusetts to \$73.77 in Rhode Island for the initial line in a batch, and a slightly lower NRC for each additional line.⁴⁵ These proposed rates are set forth in the table below.

State	Basic initial	“Large Job” project initial	Batch initial	IDLC surcharge
NJ	\$90.00	\$78.56	\$69.59	\$119.27
MA	\$73.78	\$79.68	\$55.40	\$115.13
MD	\$75.24	\$80.83	\$58.16	\$106.99
RI	\$95.36	\$101.19	\$73.77	\$118.58
NY	\$87.68	\$93.23	\$68.12	\$118.58

180. Although the New York PSC recently rejected the NRCs proposed by Verizon in that State, even the rates that the NYPSC prescribed for batch cuts were well above TELRIC levels. The NYPSC approved an “initial line” NRC of \$28.17 for the batch cut process – well below the \$68.12 rate proposed by Verizon. *See NYPSC Hot Cut Rate Order* at 3. That approved rate, however, substantially exceeds Verizon’s NRCs of \$1.49 in Pennsylvania, and

⁴⁵ The “initial” rate applies to the first line on an order for an individual customer account. All additional lines on the same customer account are assessed the “additional” rate, which is somewhat lower than the initial rate.

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\$5.01 in Virginia, for *individual* hot cuts.⁴⁶ As the Commission recognized in the *Triennial Review Order*, the NRC for batch cuts should be even lower than those levels, to reflect the efficiencies of the batch cut process.

181. Because of the deficiencies in Verizon's proposed batch cut process, AT&T would prefer to utilize the alternative large job ("project") hot cut process offered by Verizon to competitive carriers seeking to migrate large numbers of lines to their own switches. Although (as the *Triennial Review Order* found) the project process is flawed and does not "adequately address the impairment created by the loop cut over process," the project process does not contain some of the more egregious aspects of the batch cut process, including the competitive carrier's total lack of control over the timing of the cutover.⁴⁷ However, except in New Jersey, the NRCs for project hot cuts are more expensive than the batch initial cuts *and even the rate for individual hot cuts under the basic process*.⁴⁸ This has the perverse effect of rendering uneconomical the process that AT&T prefers to use, while making less expensive the basic hot cut process that the Commission has found to be so totally inadequate.

⁴⁶ The current Pennsylvania hot cut rate is contained in a tariff filed by Verizon-Pennsylvania on January 27, 2004, in accordance with the Pennsylvania PUC's order issued December 11, 2003, regarding UNE rates. See Verizon Pennsylvania Inc.'s Tariff Pa. PUC No. 216, Section 3, Part C.1 (available from Verizon at <https://retailgateway.bdi.gte.com:1490/cyberdocs.asp?optState=PA>). The \$5.01 rate for Virginia was established in the Commission's *Virginia Arbitration* proceeding. See *Petition of AT&T Communications of Virginia, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Virginia Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc.*, Memorandum Opinion and Order, 19 FCC Rcd. 1259, 1282 (2004).

⁴⁷ See *Triennial Review Order* ¶ 474 (finding that project managed cutovers involve the conversion of several lines at one time, pursuant to intervals negotiated between the competitive carrier and the ILEC).

⁴⁸ This is true not only for Verizon's proposed NRCs, but also for the NRCs recently established by the New York PSC.

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182. **Qwest.** Qwest’s proposed rates for its batch cut processes are also unreasonably high. In the 10 States in its region where Qwest has asked to be relieved of its obligation to provide unbundled switching, Qwest has proposed NRCs for its batch cut process ranging from \$45.96 to \$51.08, as follows:

State	Basic Initial Hot Cut Rate⁴⁹	Proposed Batch Cut Rate⁵⁰
AZ	\$53.86	\$45.96
CO	\$55.27	\$45.96
IA	\$46.01	\$45.96
MN	\$4.33	\$51.08
NE	\$55.27	\$45.96
NM	\$51.94	\$45.96
ND	\$55.27	\$45.96
OR	\$10.75	\$45.97
UT	\$47.66	\$49.95
WA	\$51.94	\$51.08

At best, Qwest’s proposed batch cut rates constitute only a modest reduction from its excessive rates for individual hot cuts. In fact, in at least three States (Minnesota, Oregon, and Utah), Qwest’s proposed rate for the batch cut process is even *higher* than the individual hot cut rate.⁵¹

⁴⁹ These rates are Qwest’s “basic installation” rates, which are its least expensive rates for individual hot cuts. The rates do not include charges for coordination or cooperative testing.

⁵⁰ Qwest’s proposed batch cut rates in these 10 States apply to each and every line that the competitive carrier includes in the batch. (Unlike some other ILECs, such as Verizon, Qwest does not charge a lower rate for “additional” lines in the batch.) In the remaining four States of its region, Qwest has not disputed the finding of the *Triennial Review Order* that competitive carriers are impaired in the absence of unbundled local switching.

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183. **BellSouth.** BellSouth has proposed *no* NRCs specific to its batch cut process. Instead, BellSouth's rates for its batch cut process are the same as for *individual* hot cuts, indicating that BellSouth does not believe that it will realize any significant economic efficiencies through its batch cut process. BellSouth's charges for individual hot cuts, and its charges for UNE-P migrations, are shown in the following table:

State	UNE-P Migration Rates	Hot Cut (non-designed, non-time specific, coordinated) ⁵²	Hot Cut (designed, non-time specific, coordinated) ⁵³
Alabama	\$5.93	\$64.09	\$106.13
Florida	\$1.62	\$68.31	\$145.49
Georgia	\$.65	\$58.94	\$79.85
Kentucky	\$7.98	\$88.22	\$167.45
Louisiana	\$3.08	\$59.38	\$117.02
Mississippi	\$5.80	\$64.19	\$124.03
North Carolina	\$3.08	\$80.97	\$138.61
South Carolina	\$6.02	\$64.33	\$124.22
Tennessee	\$1.03	\$76.19	\$82.74 ⁵⁴

⁵¹ In many States in its region, Qwest's proposed NRC for batch hot cuts is a combined installation and disconnect non-recurring charge. If permitted, this rate would result in double recovery of costs by Qwest, because the "lift and lay" portion of the hot cut is already included in the installation charge.

⁵² The "non-designed" hot cut rates apply to migrations of two-wire non-designed circuits with loop start signaling.

⁵³ The "designed" hot cut rates apply to migrations of designed circuits.

⁵⁴ The hot cut rates described in this table do not include an additional charge that competitive carriers must pay if they wish individual hot cuts to be performed at a particular hour of the day. These additional "time-specific" charges are approximately \$17-18 in five States of the BellSouth region, \$23.00 in Florida and Kentucky, \$34.29 in Tennessee, and more than \$50.00 in Georgia.

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184. Each of BellSouth's NRCs, whether for "designed" or "non-designed" hot cuts, exceeds the levels that the *Triennial Review Order* found to be barriers to facilities-based competition. The vast difference between these rates and the lower rates to migrate customers to the UNE platform only illustrate the inefficiencies in BellSouth's processes. For example, in Georgia, the cost of migrating a customer to the UNE platform is only 65 cents, as opposed to the NRC of \$79.85 for a "designed" hot cut (the most utilized type of hot cut in the State) – and that \$79.85 NRC does not include BellSouth's additional charge of more than \$50.00 per line if the competitive carrier wishes the hot cut to be performed at a specific time.

185. Since the state *Triennial Review Order* proceedings began during the fourth quarter of 2003, BellSouth has stated that it intends to reduce its rates for individual hot cuts by 10 percent for competitive carriers using its batch cut process.⁵⁵ To date, however, BellSouth has not posted any such reduction on its web site or given any other indication that it has actually implemented the 10 percent discount. In an *ex parte* submission that it filed with the Commission in August, BellSouth described the 10 percent discount only as a "targeted" reduction.⁵⁶ Even if BellSouth implements the 10 percent discount, it will do little to reduce the enormous gap between hot cut rates and the 65-cent UNE-P migration rate. The "discounted" rates will still be so high that they will make it uneconomical for a competitive carrier to use its own switches to serve customers.

⁵⁵ See, e.g., Direct Testimony of John A. Ruscilli filed December 23, 2003, in Georgia PSC Docket No. 17749-U, at 17-18 ("For batch hot cuts, BellSouth proposes a 10% discount of the total amount of the Commission approved nonrecurring UNE rates applicable for individual hot cuts").

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186. **SBC.** SBC’s proposed NRCs for its “Defined Batch” process (the batch cut process that is intended by SBC to meet the requirements of the *Triennial Review Order*) vary widely among the States in its service region, and NRCs are extremely high in some of those States. As the following table illustrates, for example, SBC proposes a charge of \$10.74 for a “basic” coordinated hot cut under its Defined Batch process in California, but \$36.19 in Arkansas and Texas and \$42.63 in Oklahoma, for loops not served by IDLC facilities.⁵⁷

<u>Rate Element</u>	<u>Defined Batch Rates</u>											
		<u>AR</u>	<u>CA</u>	<u>IL</u>	<u>IN</u>	<u>KS</u>	<u>MI</u>	<u>MO</u>	<u>OH</u>	<u>OK</u>	<u>TX</u>	<u>WI</u>
Defined FDT Basic ⁵⁸	NRFHD	\$35.83	\$10.61	\$25.28	\$22.90	\$34.55	\$17.82	\$31.85	\$23.71	\$38.66	\$35.83	\$20.69
Defined CHC Basic	NRFHE	\$36.19	\$10.74	\$26.64	\$26.14	\$34.89	\$17.82	\$32.16	\$25.04	\$42.63	\$36.19	\$21.90
Defined FDT Expanded	NRFHF	\$36.71	\$12.69	\$25.62	\$24.12	\$35.42	\$17.82	\$33.02	\$23.84	\$39.52	\$36.71	\$20.74
Defined CHC Expanded	NRFHG	\$37.01	\$12.75	\$26.92	\$27.72	\$35.71	\$17.82	\$33.30	\$25.12	\$43.64	\$37.01	\$21.90
Defined IDLC Basic	NRFHH	\$116.55	\$77.36	\$88.65	\$48.62	\$109.73	\$17.82	\$97.99	\$61.02	\$125.32	\$116.55	\$63.63

187. In most of the States of its region, SBC has proposed substantially higher NRCs for batch cut involving IDLC loops. As shown in the table above, those NRCs are more

⁵⁶See *Ex parte* Letter from Glenn T. Reynolds. BellSouth, to Marlene H. Dortch, attachment entitled “BellSouth’s Batch Hot Cut Process,” at 16 (filed in CC Docket No. 01-338, August 5, 2004).

⁵⁷ In addition to its Defined Batch process, SBC also offers an “Enhanced Daily” process and a “Bulk Project.” The Enhanced Daily process is essentially the same as the current individual hot cut process, with certain modifications in the ordering functions of the OSS. The Bulk Project process makes a few beneficial improvements to the current individual hot cut process, but similarly makes no modifications to the manner in which such hot cuts are actually provisioned. Rates for the “Enhanced Daily” process are generally higher than those for the Defined Batch process, while rates for the Bulk Project are about the same.

⁵⁸ SBC charges “basic” rates for batch cuts performed on weekdays between 9 a.m. and 5 p.m. competitive carriers pay “expanded” rates if the batch cuts are performed during additional specified hours from Monday through Saturday.

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than \$60.00 higher than the highest NRC for non-IDLC loops in California, Illinois, Kansas, and Missouri. In three States – Arkansas, Oklahoma, and Texas – the competitive carrier would pay approximately \$80.00 more for a batch cut of an IDLC loop. Yet, in Michigan, SBC proposes to charge the same rate for batch cuts in Michigan, regardless of whether the loop is served by IDLC.

188. The substantial differences in SBC’s proposed rates from State to State only illustrate the arbitrariness of its pricing. SBC cannot plausibly attribute these differences simply to differences in costs between States. For example, SBC’s proposed rates for “basic” coordinated hot cuts of non-IDLC loops in Illinois and Indiana are almost 50 percent higher than the \$17.82 NRC that it proposes for Michigan, even though all three States are in the same geographic area. In some of the States in its region, SBC’s proposed batch cut rates are even higher than the rates for individual hot cuts. For example, in Texas, SBC’s rate for individual hot cuts is \$21.94, which is lower than its proposed rate of more than \$35.00 for a “basic” batch cut.⁵⁹

* * *

189. The significant differences in the NRCs for batch cut processes (ranging from \$10.74 in Michigan to more than \$80.00 in some States in the BellSouth region) reflect the failure of ILECs and State commissions to follow the requirement of the *Triennial Review Order* that such rates be TELRIC-complaint. The ILECs’ rates often exceed the levels that the

⁵⁹ Like the above-described rates that SBC has proposed for its Defined Batch process, the current \$21.80 rate in Texas for individual hot cuts does not include a service order charge. With the service order charge included, the Texas rate for individual hot cuts is \$25.74.

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Commission previously found to be excessive in the *Triennial Review Order*. In some States, the batch cut rates exceed even their rate for individual hot cuts – despite the *Triennial Review Order*’s clear mandate that rates for batch cuts be *lower* than those for individual cuts.

190. Reaffirmation of the TELRIC standard in the context of batch cut processes is particularly necessary because the ILECs are persistently seeking to impose substantial additional charges for hot cuts that are plainly inconsistent with that standard. For example, in New York Verizon proposed that, for any line currently provisioned with IDLC technology under its basic hot cut process, competitive carriers be required to pay a surcharge of \$131.18 *and* a related dispatch charge of \$114.06 in addition to its high proposed NRC for individual hot cuts. If adopted, that would have imposed a staggering financial burden on the competitive carriers, which cannot use Verizon’s batch cut process (and its lower NRC) to cut over lines served by IDLC.

191. The NYPSC recently rejected Verizon’s proposed IDLC surcharge “as inconsistent with least cost, most efficient technology that forms the basis for TELRIC pricing.” *NYPSC Hot Cut Rate Order* at 57-58. Although the NYPSC’s ruling is a welcome application of the TELRIC methodology, Verizon has proposed similar IDLC charges in proceedings before other State commissions, including the New Jersey Board of Public Utilities, whose rulings cannot be predicted with certainty. More significantly, as previously described, SBC has already proposed to charge NRCs for batch cuts of IDLC-served loops that are approximately \$80.00 higher in some States in its region than its proposed NRCs for other batch cuts. Unless this Commission makes clear that rates for batch cut processes must be TELRIC-compliant, the

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ILECs will continue their efforts to make the hot cut processes (whether the batch cut process or the individual process) as uneconomical as possible.

VI. THE COMMISSION SHOULD ESTABLISH PERFORMANCE METRICS AND STANDARDS SPECIFIC TO THE BATCH CUT PROCESS TO ENSURE THAT THE PROCESS WORKS SEAMLESSLY AND EFFICIENTLY.

192. Although an ILEC may have an established batch cut process that appears to work well on paper, it is essential that performance metrics, standards, and financial penalties for poor performance to ensure that the ILEC is following the process and that the process is working as designed. Absent the establishment of such measurements and financial penalties for substandard performance, an ILEC will have no incentive to make its batch cut process work seamlessly and efficiently.

193. In requiring State commissions to implement adequate batch cut processes, the *Triennial Review Order* recognized the need for metrics, standards, and penalties. The Commission found the ILECs' Frame Due Time and project managed approaches to be inadequate because, among other things, "there generally are no performance intervals associated with these approaches" and the ILECs therefore "are not subject to financial penalties for inadequate performance." *Triennial Review Order* ¶ 474. For the same reason, the Commission rejected Verizon's assurances that it could efficiently manage hot cuts on a negotiated project managed basis. *Id.* n.1464.

194. The *Triennial Review Order* plainly anticipated that, as part of their development of batch cut processes, State commissions would develop metrics and standards specific to those processes in order to evaluate their inadequacy – and also establish penalties for inadequate performance by those processes. In the *Order*, the Commission stated:

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In addition to developing a cost-effective hot cut process, state commissions should evaluate whether the incumbent LEC is capable of migrating batch cutovers of unbundled loops combined with unbundled circuit switching to unbundled stand-alone loops for any requesting carrier in a timely manner. Specifically, *state commissions may require that incumbent LECs comply with an average completion interval metric, including any further disaggregation of existing loop performance metrics (i.e., quality or maintenance and repair metrics) for provisioning high volumes of loops.*

Triennial Review Order ¶ 489 (emphasis added).⁶⁰

195. The Commission also recognized that even after batch cut processes have been implemented, competitive carriers “may face barriers associated with loop provisioning – even problems arising from the newly improved hot cut processes – which may continue to impair a requesting carrier’s entry into the mass market.” *Id.* ¶ 512. The Commission therefore requested State commissions to consider “more granular evidence concerning the incumbent LEC’s ability to transfer loops in a timely and reliable manner.” *Id.* As evidence that might be relevant to such an inquiry, the Commission cited “commercial performance data demonstrating the timeliness and accuracy with which the incumbent LEC performs loop provisioning tasks and the existence of a penalty plan with respect to the applicable metrics.” *Id.* Finally, the Commission described the types of performance data that State commissions should consider:

In determining whether granular evidence contradicts our finding that the hot cut process imposes an operational barrier, the state commission should review evidence of consistently reliable

⁶⁰The regulations established by the *Triennial Review Order* expressly *require* State commission to evaluate whether the ILEC “is capable of migrating multiple lines served using unbundled local circuit switching to switches operated by a carrier other than the incumbent LEC for any requesting telecommunications carrier in a timely manner,” and authorize the State commission to require ILECs to comply with an average completion interval metric for batch cuts. 47 C.F.R. § 51.319(d)(2)(ii)(A)(3).

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performance in three areas: (1) Timeliness: percentage of missed installation appointments and order completion interval; (2) Quality: outages and percent of provisioning troubles; and (3) Maintenance and Repair: customer trouble report rate, percentage of missed repair appointments, and percentage of repeat troubles.

Id. n.1574.

196. However, adequate performance metrics, standards, and penalties to evaluate the performance of the ILECs' batch cut processes are not in place. Although the ILECs are currently subject to some metrics and penalties regarding hot cuts, those metrics and penalties were designed with the basic (individual) hot cut process in mind – not batch hot cut processes. Moreover, the current metrics and penalties were developed at a time when volumes of hot cuts were relatively modest, without assuming the far larger volumes that can be expected if the competitive carriers are required to serve their UNE-P customers through their own switches.

197. To date, State commissions have not established any performance metrics, standards, or penalties specific to the ILECs' batch cut processes.⁶¹ When this issue has been raised by the competitive carriers, the ILECs have responded that the appropriate metrics, standards, and penalties can be developed *after* they have implemented their batch cut processes. Such an approach is totally unacceptable.

198. Testing or implementing a batch cut process without established metrics and standards would make it impossible to determine whether the process was performing

⁶¹ The New York Public Service Commission recently ordered Verizon and the competitive carriers to develop the necessary metrics and standards within 60 days and, if they could not

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adequately. Specific metrics, standards, and penalties should be established *before* an ILEC is allowed to offer a batch cut process – and before a State commission approves that process. To do otherwise would require competitive carriers to submit batch cut orders before any incentives were in place to ensure that the batch cut process worked properly. The ultimate development of metrics, standards, and penalties – which could take considerable time in a collaborative process or in litigation – would be of no benefit to competitive carriers whose lines were inadequately migrated prior to such development. By that time, the damage will have been done.

199. Given the lack of action by the State commissions, and the need to provide the ILECs with sufficient incentives to develop adequate batch cut processes, the Commission should establish metrics and standards for those processes. Thus, the Commission should require State Commissions to establish, at a minimum, the following metrics specifically for hot cuts performed under the batch cut process:

- Flow-through rate for batch cut orders
- Average offered interval (*i.e.*, the average number of business days between the receipt of a non-rejected batch cut order and the due date offered by the ILEC on the firm order confirmation).
- Average provisioning interval
- Percentage of batch hot cuts started on time
- Percentage of batch hot cuts completed on time
- Percentage of batch hot cuts completed without a service disruption
- Percent of trouble reports

reach agreement during that period, to submit the unresolved issues to the NYPSC for resolution. *NYPSC Hot Cut Rate Order* at 68-69.

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- Average duration of any service interruption
- Percentage of batch hot cuts completed without timely notification to the competitive carrier
- Timeliness of jeopardy notices issued by the ILEC for batch hot cuts that it cannot complete
- Timeliness of rejection notices
- Timeliness of firm order confirmations (“FOCs”)
- Percentage of orders where the due date on the FOC was the due date requested by the competitive carrier.⁶²

200. In addition, the Commission should require that the benchmarks for these metrics be the same as those governing the ILEC’s performance in provisioning the UNE platform. If an ILEC’s batch cut process is to be “seamless” and “timely,” it must compare favorably to the performance of the ILEC in provisioning UNE-P.

201. The ILECs’s provisioning of the UNE-P is precisely the type of “seamless, low-cost process for transferring large volumes of customers” that the *Triennial Review Order* required for batch cut processes. ILECs provision the UNE-P to competitive carriers electronically, with no associated physical work and with minimal chance of errors or service disruptions. Similarly, for an ILEC, “connecting or disconnecting a customer is generally merely a matter of a software change.” *Triennial Review Order* ¶ 465. Customers will expect no less if their current UNE-P service is migrated to UNE-L. As the *Triennial Review Order* stated,

⁶² In certain circumstances, based on the ILEC’s practices, some of these metrics may be applicable to some ILECs but not for others. For example, “Percentage of orders where the due date on the FOC was the due date requested by the competitive carrier” would not be a measure that applies to Verizon’s proposed batch cut process, with its “floating” 26-day interval.

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customers “have come to expect the ability to change local service providers in a seamless and rapid manner.” *Id.* ¶ 471.

202. The *Triennial Review Order* recognized that the benchmarks for judging the performance of an ILEC’s batch cut process must be those used for the type of electronic migrations that occur in the context of the UNE-P or the ILEC’s own retail service. The Commission held that a State commission needs to review the adequacy of an incumbent’s hot cut process “to ensure that customer loops can be transferred from the incumbent LEC[’s] main distribution frame to a competitive LEC collocation *as promptly and efficiently as incumbent LECs can transfer customers using unbundled local circuit switching.*” *Id.* ¶ 512 n.1574 (emphasis added).

203. Finally, the Commission should require that all of the above-described metrics for the batch cut process be included in the existing penalty plans or performance incentive plans governing the ILEC’s performance. Each of these metrics is a critical metric that measures a customer-affecting aspect of the batch cut process. Unless they face the prospect of substantial penalties for failure to satisfy the standards and benchmarks of these metrics, the ILECs will have no incentive to render proper performance.

CONCLUSION

204. The need for Commission action is critical. The *Triennial Review Order* required States to approve a “seamless, low-cost” batch cut process that “will render the hot cut process more efficient and reduce per-line hot cut costs.” *Triennial Review Order* ¶¶ 423, 460. Nearly fourteen months later, the State commissions have not done so. As Attachment 1 demonstrates, few of the State commissions have approved *any* batch cut process, much less a batch cut process that satisfies the Commission’s criteria. The Commission should therefore adopt the requirements that we have described in this Declaration. Unless it does so, the economic and operational barriers erected by the hot cut process will continue, thereby deterring the development of facilities-based competition.

205. This completes our Declaration.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

October 4, 2004

/s/ John S. Szczepanski
John S. Szczepanski

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

October 4, 2004

/s/ Mark David Van de Water
Mark David Van de Water

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

October 4, 2004

/s/ Sharon E. Norris
Sharon E. Norris

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